

MANPOWER - BLACKMOBILITY

1998

# Employment equity bill slated as too soft

(176)

Private-sector employers given too much time, says forum

By EDWIN NAIDU

Six weeks before the expiry date for public comment on the Government's Employment Equity Bill, the proposed legislation has come under fire from the Black Management Forum for being "too soft" on employers in the private sector.

Forum President Lot Ndlovu said his organisation welcomed legislation as a tool for transforming the workplace but believed the proposed bill allowed companies in the private sector too much time to get their house in order.

The proposed bill, released last November, gives companies 18 months in which to submit equity plans and those not complying could be hit with fines of between R500 000 and R900 000.

"The 18-month period is unacceptable. We have a very serious problem with that because it allows companies to start from a zero base and pretend that they never knew about affirmative action legislation," he said.

Ndlovu said separate studies, including one by FSA Contact, had shown that when asked about the main challenges facing business many of the companies canvassed said

affirmative action was one of the main issues requiring attention.

"It seems as if Government is giving companies a long time frame because affirmative action is a brand new concept to business. This is unacceptable," he said.

Ndlovu said the bill set no targets for employers in the private sector. These were necessary to judge its effect on the workplace.

"I do not think employers will oppose the imposing of targets because at the end of the day, it is in their interests," he said.

Ndlovu added that the forum was also concerned about the placement of the bill within the Ministry of Labour.

"Since this bill is pivotal to transformation of our society as a whole, and not just ensuring blacks take up positions, we feel that to help change the culture and mind-set of our people, the bill should be driven from the deputy president's office," he said.

Ndlovu said the forum would be willing to work with the Government to iron out differences before the bill becomes law.

During the unveiling of the bill, Labour Minister Tito

Mboweni said several studies had shown that management in South Africa was still dominated by white men, who make up "a small fraction of our society".

"The grim reality is that black people continue to perform almost all lower-paid and lower-skilled jobs," he said.

He said legislation would not change the workplace in the country overnight but would encourage change or else old patterns would continue.

Mboweni said the bill should not encourage companies to make token appointments of blacks, women or the disabled.

"We do not ask employers to employ people who are disastrous for the job and incapable. We are demanding that they train their staff, that they eliminate racial discrimination in the workplace and that they recruit from the widest possible pool of suitable candidates," he said.

Mboweni said the fact that, four years into the democratic order, the labour market remained so skewed bore testimony to the need to take steps to change.

The bill is available for public comment until February 16 after which it will be debated in Parliament. It is expected to be passed into law by June.

STW. 5/1/98

## SA woman seeks asylum

(176) #79  
A WHITE Cape Town woman is seeking political asylum in the US to escape affirmative action in SA, a Sunday newspaper reported.

Lyn Rutherford, 32, told a judicial hearing in Washington that she would be disadvantaged by affirmative action if she returned home, the Sunday Independent report said.

If the application was successful, it could set a precedent and open the gates for white South Africans who wished to emigrate to the US, the newspaper said.

Rutherford, who has been working for a computer firm in Los Angeles for the past three years, apparently has the sympathetic ear of the judge.

He has granted her two hearings so far and has asked her to produce more evidence at her third hearing on how she would be disadvantaged as a white person in her own country. The hearing has been set down for this Thursday.

Rutherford's sister, Janet — who lives in Cape Town — has been helping her gather evidence on government insistence that whites must accept that other races be favoured by affirmative action.

This included Deputy President Thabo Mbeki's recent warning to whites that they had to accept change or be forced to accept it, the newspaper said. — Sapa.

# Affirmative action 'will help, not harm, women'

(176) SKW 20/11/98

South African seeking asylum in US is said to be on thin ice

By ANSO THOM

A white South African woman seeking political asylum in the US because of South Africa's affirmative-action policy is using an unconvincing excuse, according to local experts.

Lyn Rutherford (32), who has been working in Los Angeles for the past three years as sales executive for a computer company, told a judicial hearing in Washington she would be disadvantaged by affirmative action if she returned home.

Phinda Madi, author of two books on affirmative action in SA, said Rutherford reminded him of a camel running away from water.

"Her case is very strange, specifically in terms of the fact that she is a woman, a group

which is regarded as part of the disadvantaged," Madi said.

He said that if Rutherford had been a white male, he would have understood her reasons for seeking asylum, although he would still have disagreed.

University of Cape Town researcher Angus Bowmaker described the application as a "long shot". He said it was, however, clear that women were under-represented in the SA labour market, with less than 23% employed and less than 14% in management positions.

Bowmaker agreed that times were tighter for women, but that it had always been the case. "It is rather because of society that this problem exists," he said, adding that the judge should be shown a copy of the Affirmative Action Bill, which he described as ex-

tremely balanced.

Acting MD of the Black Management Forum, Jimmy Manyi, said Rutherford had no leg to stand on because women were specifically classified as a disadvantaged group.

"This is an absurd accusation. If she is competent, she has no reason to be afraid," Manyi said. He said Rutherford was sensationalising the issue in an attempt to sway the judge.

The judge asked Rutherford, a former Capetonian, to provide more information to support her case that she would be disadvantaged as a white person in her country.

If the application is successful, it could set a precedent and open the floodgates for South Africans who wish to emigrate to the US.

# Development Bank to Pay R3m a Year in 'Symbolic Reparation'

Greta Steyn

THE Development Bank of Southern Africa is to compensate some staff members for earnings forgone in the apartheid years as a result of discrimination on the basis of race or gender. The small retroactive payment is largely a symbolic gesture and will not fully take care of the earnings lost. The bank confirmed yesterday that a payment of R2m, which had not been in the original budget, would be made during the present fiscal year to com-

pensate for past injustices. It is understood that the idea of retroactive action was resisted by some board members who argued that reparations would set a precedent and would be difficult to implement. However, they relented when it was argued that past managements had promised to make a retroactive payment. "We have accepted that there has been discrimination and are taking steps to rectify the situation and to ensure that it does not happen again," said the bank's CE, Ian Goldin.

The bank's board had approved an extraordinary payment of R2m this fiscal year to start to make up for past injustices. Goldin said budgets in financial years starting in April this year would include R3m annually to compensate people who had lost out as a result of discrimination. About 150 people — about a third of the bank's staff — would benefit. They had been identified with the help of outside specialists in human resources and accounting. "But the bank's affirmative action committee and women's

forum played a key role in reorganising the bank's salary structure. It was a consultative process," Goldin said. Where people with the same qualifications and experience as their white or male counterparts had been earning less, adjustments had been recommended, he said. The bank's reorganisation came in for some negative publicity in 1995 as a result of accusations that management was not moving fast enough on affirmative action. It has had a quieter time subsequently, but some problems re-

mained under the surface. Difficulties in reorganising the bank have led to accusations that its internal problems are keeping it from doing a proper job in providing it from opment finance. However, Goldin devalued this emphatically, noting that the bank's loan commitments and disbursements had risen, as had its profit. Productivity had improved, with staff numbers falling more than 10% to about 470 people. "The focus on internal reorganisation has not been at the cost of delivery," Goldin said.

# The new face of unfairness in the workplace

ZUBBY LACOB

(17b) CT(6R) 2/1/98

**T**he pursuit of equality and the prohibition of unfair discrimination put forward both a positive obligation — to treat everyone as equal under the law — and a prohibition against infringing that obligation.

Unfair discrimination is prohibited in the workplace. The National Labour Relations Act, 1995 (NLRA) extends this right and protection even further by applying the same principles to those applying for employment.

The pursuit of equality may however, lead to discrimination in reverse if boundaries are not set and principles not clarified.

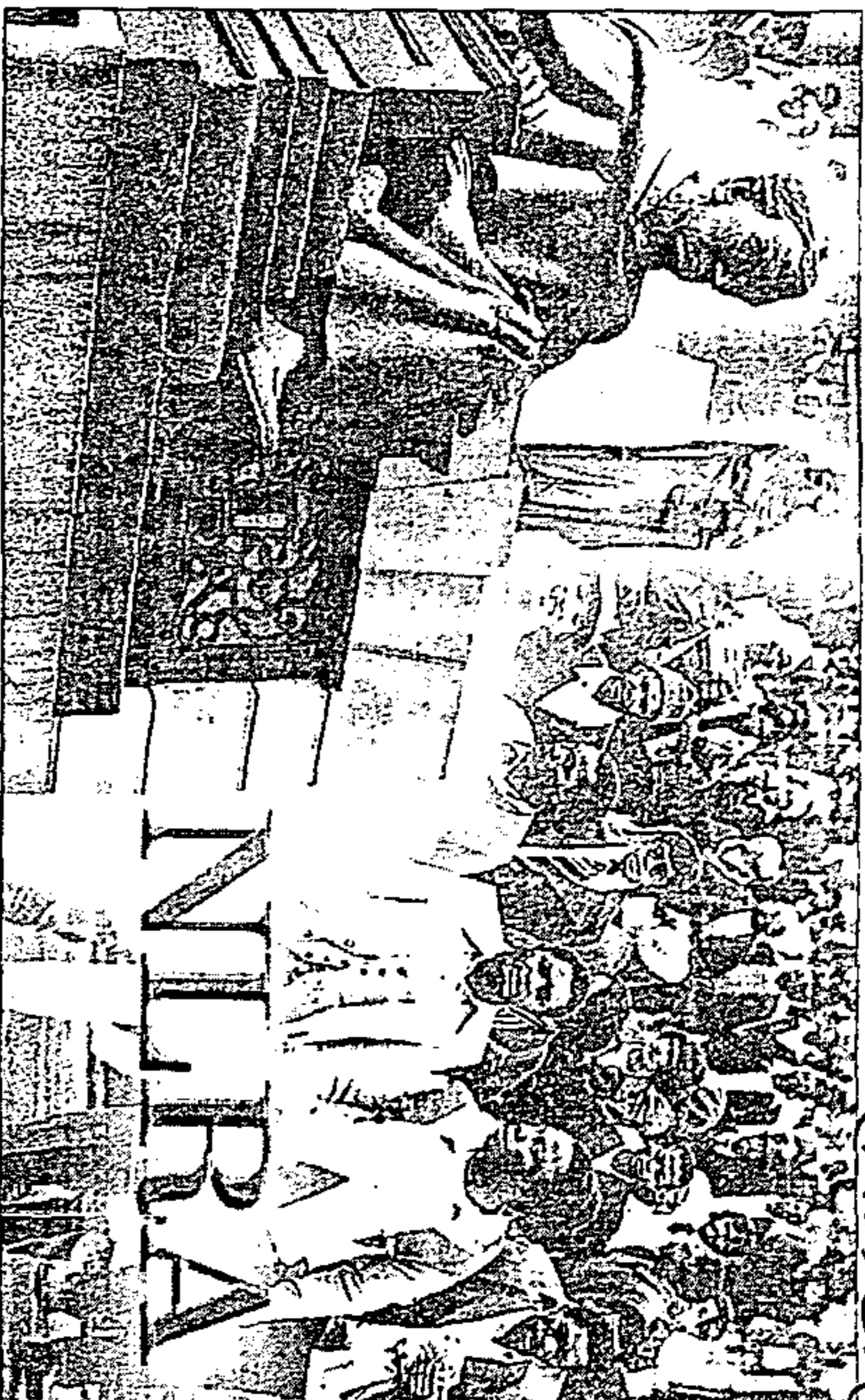
Our history bears testimony to the fact that discrimination was endemic in the workplace, mainly along racial lines but also in other ways.

Prior to 1994 the industrial court and the supreme court had been called upon to intervene in regard to discriminatory practices. The industrial court once upheld the validity of a series of retrenchments based upon the employer's contention that female employees could not be expected to perform manual labour as well as men could.

On another occasion, the industrial court declared unfair the practice of the Chamber of Mines to maintain separate pension funds for whites and blacks, on the basis that it would be disadvantageous to white employees if black employees participated in the same pension fund because their mortality rate was higher than that of whites.

A discriminatory practice must be unfair to be unlawful. But even now, not all forms of discrimination are prohibited.

The constitution and the NLRA recognise that we are not



all equal in everything and that different people must be treated differently. The differentiation, however, must be legitimate to be lawful; that is, an employer may differentiate between a job applicant who has an inherent requirement of a particular job, and one who does not.

There can be no argument that there is an urgent need to address the adverse results of the systematic application of discriminatory legislation and practices in South Africa.

This need is integrally bound up with the concept of equality and is, indeed, a necessary component of that equality. It is achieved *inter alia* by the application of what are commonly known as affirmative action policies.

It is frequently argued, both in regard to section 9(2) of the constitution and in regard to the NLRA, that the positive application of affirmative action policies is fundamental to

attaining equality in substance.

The NLRA permits the implementation of employment policies, such as affirmative action, which are designed to achieve the protection and advancement of persons who were previously disadvantaged by discriminatory practices. The act accepts these policies as legitimate even though they may be discriminatory in effect.

If the purpose of an apparent discriminatory policy is to create equal employment opportunities and redress past discrimination, it will in principle not be unfair.

Our courts have upheld the application of affirmative action policies in areas other than employment. For example, the high court upheld as lawful the practice of the medical school of the University of Natal, which had adopted a policy of applying different admission criteria to black students from those applied to other students.

Unfortunately, in the workplace affirmative action policies are frequently applied for the wrong reasons.

Employers often apply so-called affirmative action policies for economic reasons rather than in the pursuit of equality — for example, to attract new business or to qualify for government tenders.

So-called disadvantaged people (usually non-white males) are sometimes appointed to senior positions in the private sector without regard to their skills and without the proper implementation of training policies to help them succeed in their new positions.

In the public sector, affirmative action goals are set by way of quotas. Restructuring is the name of the game. Experienced employees are overlooked for advancement or are offered, and accept, retrenchment packages. The resulting vacancies are filled in compliance with set

quotas, without regard to skills or other qualifications for the position being filled.

The application of affirmative action policies in this manner has many adverse effects. I name but a few: skills are either wrongly utilised or not utilised at all; job seekers who are not members of disadvantaged groups find it difficult to obtain employment; employees are wrongly overlooked for promotion or advancement; disadvantaged persons have expectations which cannot be fulfilled; mobility is stultified in both the public and private sectors.

Even in those instances where the appointment is bona fide and rational, the perception by other parties of the reasons for the appointment — that is, that the appointment was merely to fulfil affirmative action criteria — renders the appointment ineffective in the role which he or she has been assigned.

The improper application of affirmative action policies, although difficult to establish, constitutes an unfair labour practice. It may also offend the equality provisions of the constitution.

The arbitrary adoption of measures in the name of remedying past discrimination will inevitably result in the application of new discriminatory practices against those persons or groups who are not intended to be the beneficiaries of such remedial policies.

□ *This is the first of a two-part series on the legal aspects of equality in the South African workplace. Part two, on the intervention of the courts in this area, will be published in Business Report tomorrow. Zubby Lacob is an attorney in Johannesburg.*

# Black pilots reach skyward

By TRISH BEAVER

Whenever Mpho Mamashela heard the roar of an aircraft above him, he would raise his hand and ask the teacher if he could go to the toilet.

The minute he was out of the classroom he would scan the sky looking for the plane. His eyes would follow it until it was a distant speck on the horizon, and then he would return to class.

Today he is one of South African Airways' first black pilots and he believes he has a duty to inspire other black youngsters to follow their dreams.

Senior first officer Mamashela (33) was not one of SAA's cadet pilots - he had to follow a very different path in order to qualify and wear his wings.

## Excellent schooling

He was fortunate enough to get excellent schooling in Swaziland, where his parents were in exile. His mother balked, his grandmother sewed and they scraped up enough money to send him to the renowned Waterford-Kamhlaba School. After his O Levels he was awarded a German aviation scholarship.

He was trained by Luthansa and worked for Air Lesotho and Anglo American before moving to SAA three years ago.

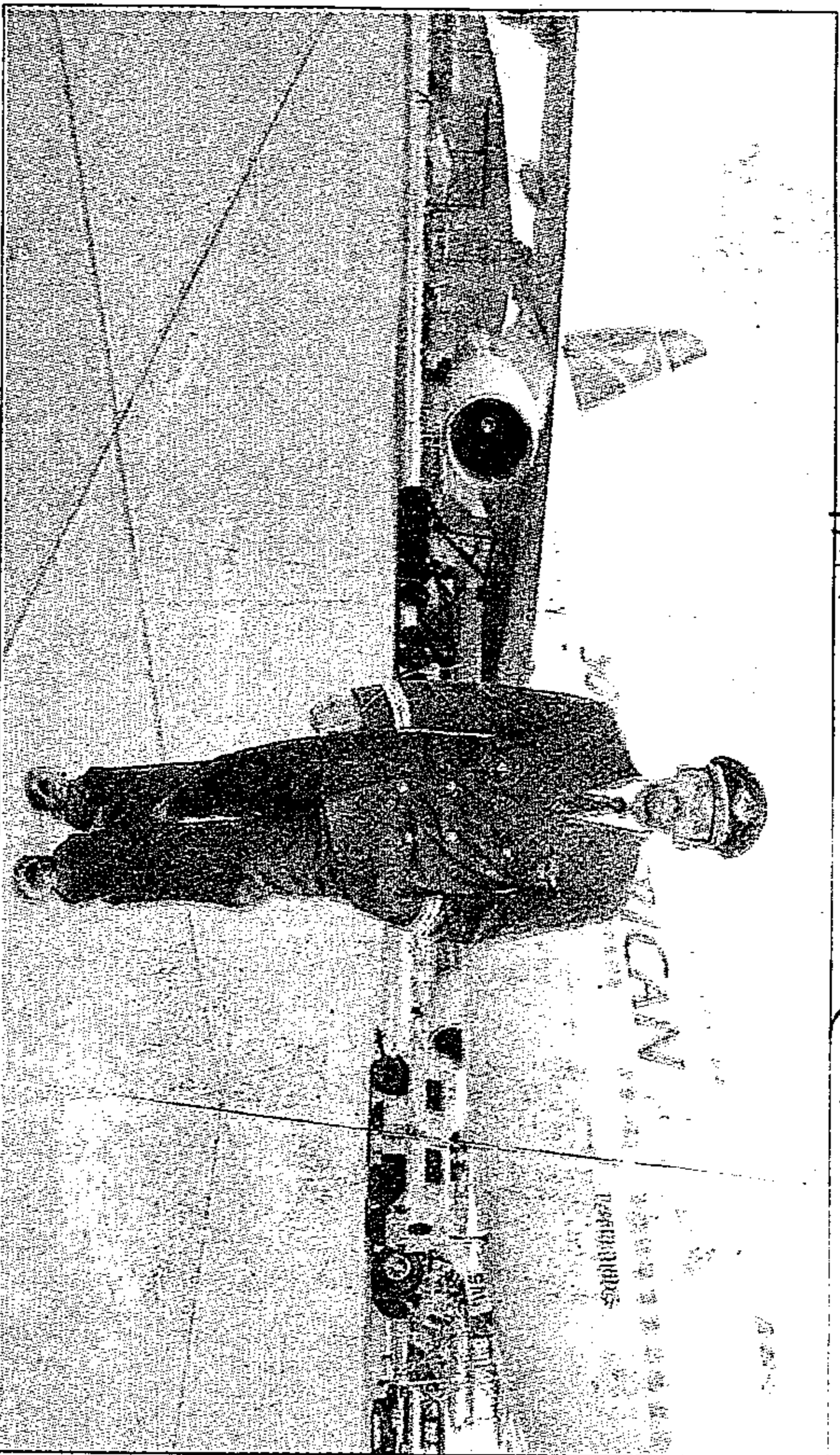
Today he is very involved in an education programme, Vulindlela, which means "show the way". It aims to expose black children to a career in the airways and he has given invaluable input into the preparation course that introduces cadet pilots into the world of aviation.

Now, four years after the SAA cadet pilot programme began, about 10 matric graduates will have the chance to learn how to fly. Intensive advertising campaigns began in earnest recently as the programme began to look for talent.

Of the 10 or more people who are

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(176)



AIMING HIGH: One of SAA's first black pilots, Mpho Mamashela

PHOTOGRAPH: HADLEY TOWEEL

## Affirmative action reaping rewards at South African Airways

selected from thousands of applications, most affirmative action candidates.

Captain Doc Malan, chief pilot of flight training, says SAA's decision to look for black pilots was dictated not only by the need for black advancement in the airways but by an in-depth assessment of supply and demand.

"Traditionally we got our pilots from the SA Air Force, which had already trained them to a high standard, or we had applications from pilots who had paid for their own pilot's licence and qualified on light

aircraft," he says.

"These days, the air force trains very few pilots because of the financial costs involved and the fact that we are no longer in a war situation. Those pilots who can afford to pay for their own basic training are usually white and privileged. We lose a lot of pilots to overseas airlines who recruit locally. Our pilots are regarded highly and we aim to keep up that standard. But we need to replace those who leave.

"If we were going to attempt to address the issue of affirmative action seriously we had to make a

plan. We decided to start looking for suitable cadet pilots, and we devised an intensive programme of training.

"Most of the training is done at the Australian Aviation College in Adelaide. We offer our cadet pilots a preparation course, which lasts five months, before they go to Australia, and then we offer them two years of post-graduation in-house training at one of our partner airlines to hone their skills."

Malan believes that the level of training leaves no doubt as to the pilots' ability.

"We spend almost R500 000 on

each pilot cadet. The whole programme has cost us about R21-million.

"We have almost 700 pilots and fewer than 10 of them are black. The reason for this is that we will only employ those who are up to scratch. To fill up numbers we could have poached pilots from other African countries but we have to satisfy ourselves that they match our standards. You cannot compromise on air safety - our first responsibility is to the passengers."

Malan is also adamant that the opportunity to learn to fly is within reach of "ordinary" people. He stresses that the SAA cadet pilot course is open to anyone with a matric exemption who completes mathematics as a subject.

## Inner sparkle

"We do get some university graduates applying for the course but we have also accepted people with very average marks. What we really want is an inner sparkle: a love of aviation, a person who dreams of being in control of a jumbo jet. That kind of person can be found in a township."

The affirmative action project also applies to women who wish to fly. The course has very tough standards and past experience shows that 40% of those who are selected do not make it.

"We've re-examined our criteria and made it a bit tougher, but at the end of the day it's a decision of commitment. We don't want anyone to say 'You passed because you are black'," Malan says.

The first eight cadet pilots will join SAA in October this year.

Mamashela believes he can encourage black children to follow his example. "I was a lucky child. I had the benefit of a good education. But I also worked hard. Every child must nurture their dreams and know that it can happen," he says.

Affirmative action is a mechanism of continued subjugation and control which remains in the hands of whites. Africans need to control and monitor the process, writes Professor WILLIAM MAKGOBA.

IT WAS not until 1996 that a certain African stood firm in front of the world and declared: "I am an African." Before this declaration Africans had, over three hundred years, undergone a series of linguistic and non-linguistic evolutions from Kaffir, to native, to bantus, to plural, to black.

In 1994 October, I returned from London to find that the impending new South Africa was gripped by an Affirmative Action (AA) epidemic. Everywhere whites were putting up "rent a black" adverts, to safeguard their futures and disproportionate powers.

Three years into Uhuru, AA officers have been transformed into RDP managers, into Human Resource managers, and into Gear or African Renaissance managers - depending on the rate of revolution.

What those two examples show is the chameleon nature of white South African leadership attitude and lack of commitment to fundamental transformation.

It is often heard from certain sections of the white community that AA in South Africa will fail, just as it is alleged to have failed in America. Why?

Current AA policies are under the control of whites and when those do not serve white interests, they make sure that it fails. AA is just a terrain of struggle for the soul, agenda, direction and identity of our country.

AA has been part and parcel of South Africa's history since 1652. White society applied the process ruthlessly not only to enlighten themselves but also their values and notions in our society.

When the English were in charge, their like were affirmed. When the Afrikaners were in charge, their own were affirmed. A white society continues the white community developed and refined strategies for AA to maintain control of the national agenda.

One is left in no doubt that white racism will continue for many years unless Africans start to bite the hand that feeds them. Biting so Africans will remind whites of their hunger and determination of how they must be fed.

In the late 1940s and 50s when Afrikaner MA was at its height, they devised a clever strategy - divide the so-called non-whites hierarchically into bantus, Indians and coloureds. Naturally whites were at the top, followed by coloureds, then Indians and finally bantus.

To further refine this technique, they divided the bantus into tribes and re-established chieftainships by bribing a few into

# Whites cynically control Africans in the guise of affirmative action

*Bite the hand that feeds you to show what you're made of*

CP 25/1/98 (176)

coercion. They carved the country into smallholdings, and called these bantustans. They bypassed legitimate African leadership and appointed those bantus made in the white man's image as leaders. They formed these homelands into a "constellation of states" and placed Indians and coloureds in a tricameral parliament to join the fight against "die swart goewer".

Of course, as nature is often cleverer and more complicated than mankind, some of these homeland leaders understood gross mutations to become thorns in the flesh of the grand plan.

The collapse of this system gave rise to our new dispensation in 1994. Noticing that the former scheme of AA was no longer appropriate, the whites launched a new, sophisticated version of AA.

Corporate South African universities and other institutions went scouting for blacks to come back home. However, the type of black being sought was not for the benefit of the transformation of black society but for the benefit, survival and preservation of white society. They sought blacks who would bring in capital, win contracts, save their masters' consciences and remain loyal and faithful.

If, as a black you claimed the slightest connection with the ANC, MK or knowledge of Mandela, Sisulu or Mbeki, you were highly sought after. If you were an "islander", an exile or an "inkle" or MDW member, you could literally name your price. If you had ridden an elephant or crocodile to cross the border or the Limpopo, you were a hero.

The stampede to "rent a black" was so prevalent that no form of verification or

screening was thought necessary. As a result many people landed cushy jobs. (I remember vividly how a bunch of incompetent security guards were hired at enormous cost by Wits university simply because they claimed to be former MK soldiers.) Some institutions were even looking for black "English gentlemen or ladies" in order to maintain culture and tradition, rather than transform.

Whites always knew that they did not want to transform but could, by cleverly manipulating the system, get a few front men as a black veneer to maintain their old ways. That is why they went to great lengths to seek blacks with the identity of whites, blacks who would not bite the hand that fed them, blacks without roots in the black community, blacks who were not historically and culturally conscious.

Once identified, you could be recruited straight into the senior management team without a written job description. Your office would be situated next to that of the MD and you would be offered a white security and a status car. If you complained, a cellphone and CD would be added.

Without a job description you would have no portfolio to develop and no transformation programme to carry out. To all intents and purposes you would be a decoration, an intelligent idle manager and a showpiece for visitors. You would be introduced to all eminent visitors, whined and dined at the highest tables. You would be flattered in order to null critical facilities. However, attendance at management meetings and occasional comments would be asked of you. In case you had a clever idea, you first had to run it past the boss or management because you were not an

independent thinker. Soon or or later boredom would set in and another firm would headhunt you for a few bob more, but the pattern would continue.

For the whites, affirmation would have been accomplished through entry into their world - becoming one of them. They could feel the now government that they were transforming, with a Phoko in the senior management. If you complained about a lack of power or authority explanations would be given that decision making in the organisation was by consensus - meaning that blacks should be part of or endorse white management decisions.

Should a worker or student strike break out, you would be the first undercover operator designated to deal with these unruly Africans. You would become visible and show your seminal expertise as a black. What these other Africans were to use in you was how, by being a "good, docile boy" they could one day, like you, reach the top. As long as you were "Umlingol omnyama" (a white black man), you were a perfect role model.

In today's South Africa, whenever whites have to implement AA, they prefer an Indian or a coloured to an African. Suddenly they forget that the hierarchy of race was white, coloured, Indian and African. Effectively, to use AA as a redress mechanism, this hierarchy has to be implemented in reverse - African, Indian, coloured and white.

If whites have to choose an African, they prefer a coconut or a foreign African who has no stake in the country. A quick glance at our newspapers will confirm this trend. If Jon Gwelane, Thami Mazwai, or Kaizer Nyantumba were whites or some shade of white, there is no doubt that they would be leading editors



MONITORING THE AFFIRMATIVE PROCESS... Prof WM Makgoba

of our major newspapers. Even more startling is this: If any of these guys knew how to open and cut oysters or caviar, their careers would have taken a different turn. This has become a paramount criterion for editorship in some of our media houses. Unfortunately poor Jon, Thami, Kaizer and Mondli excel at slaughtering goats and eating red meat. Tough luck, guys! However, just imagine how many white editors would be unemployed. If goat-slaughtering was a criterion for editorship, how many white kids would be out of university entrance. Oysters in particular, with their proven and renowned aphrodisiac properties, are chosen to ensure that the white male boss is firing on two engines at full speed all the time, his level of androgens and hence aggressive behaviour is kept at optimal levels.

Foreign Africans, either from America or the African continent, are brought here under two pretexts: to maintain international standards and to act as smokecreens for genuine AA. To the outside world, Africans - like bacteria - are all the same and look alike, so to have Olu or Romi instead of Poo or Lerato makes no difference.

What is important is that these foreign brothers or sisters are used. They are informed that the indigenous African does not like them, so they must not associate with them in case they learn the bad

habits of running police officers or toy-toting. Their work permits are dependent on their adopting the masters' agenda otherwise they might be sent back to war-torn Burundi, Congo or Nigeria.

Practically, they serve no useful purpose in the transformation or renaisance of our society, for they have no stake in this country, and hardly identify with our socio-political battles. They remain spectators.

AA in South Africa is in the control of whites. They determine its content, pace and criteria. It is whites who decide whom to affirm and the rate and criteria for affirmation. It is whites who in general run the institutions of civil society, business, the media, universities, the judiciary, etc. It is they who determine the quality of AA positions.

Any black who is threatening, self-assured or has a sense of identity and champions African values doesn't stand a dog's chance. Integrity, honesty and qualifications don't matter, only whose interests you serve as a black.

Blacks have no control over this process, save to be happy to see one of their own move up the ladder. Blacks do not even question a brother's or sister's agenda in talking up such positions. They do not monitor or assess the success of AA employees. We do not ask who the AA employee has affirmed since taking position. We do not set the criteria that are in the interest of our society and the transformation agenda to be pursued. Post-liberation has been left to individuals without focus or coherence.

In short, we have left one of the most important instruments of transformation totally in the hands of the very same people whose agenda and program of change is incompatible with ours. We have allowed too much Ubuntu into this process. How do we leave control and monitoring structures in the hands of our adversaries? Can whites be entrusted to promote a process which they perceive to threaten their very existence?

"Contractors, Africans and counterymen, lend me your ears." Unless we Africans set criteria, control and monitor processes that are in the interest of Africans and our renaisance, AA will become the new instrument of racial domination.

As Mike Tyson and a few rugby players have recently shown, at times it is necessary to bite your opponents' ears in order to win or get your message straight into the head.

I hope we do not reach this stage.

□ *William Makgoba is professor of Molecular Immunology at Wits University.*

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*Unisa survey identifies business concerns for 1998*

# Racialism is rising, say SA executives

CT (PR) 27/1/98 (176)

**ROY COKAYNE**

Pretoria — Sixty-five percent of the executives in the top 100 industrial companies listed on the JSE believed the government was increasingly formulating policies that would entrench race consciousness and "selectionism" in South Africa, according to a survey conducted by the Bureau for Market Research (BMR) at Unisa.

More than 90 percent of the executives also believed the government was missing the targets set in its Gear strategy, according to a recently published report conducted by BMR on the annual economic and socio-political expectations for 1998.

However, in contrast to 1996 and last year, the executives were positive about business confidence and the political situation in South Africa during 1998.

In 1997, executives were negative about business confidence but positive about the political situation, while in 1996 they were positive about business but negative about the political situation.

According to the report, the

executives predicted an economic growth rate of about 2,6 percent for this year, but with some downside if the El Niño effect was severe.

The report said there was also potential for severe damage to the global economy in the form of an international banking crisis and deflation.

An inflation rate of about 8,1 percent, a reduction in the prime overdraft rate to 18 percent by December 31 this year and a further decline in the US dollar/rand exchange rate to an average of R5,03 were predicted by the executives for 1998.

The report said the executives had suggested that the time may have come for politicians and economists to co-operate to devise means both of curbing the wild swings that were fast becoming a feature of financial markets and insulating the world economy from their damaging consequences.

This suggestion was made in view of the turbulence that world financial markets were experiencing, to which South Africa was particularly vulnerable.

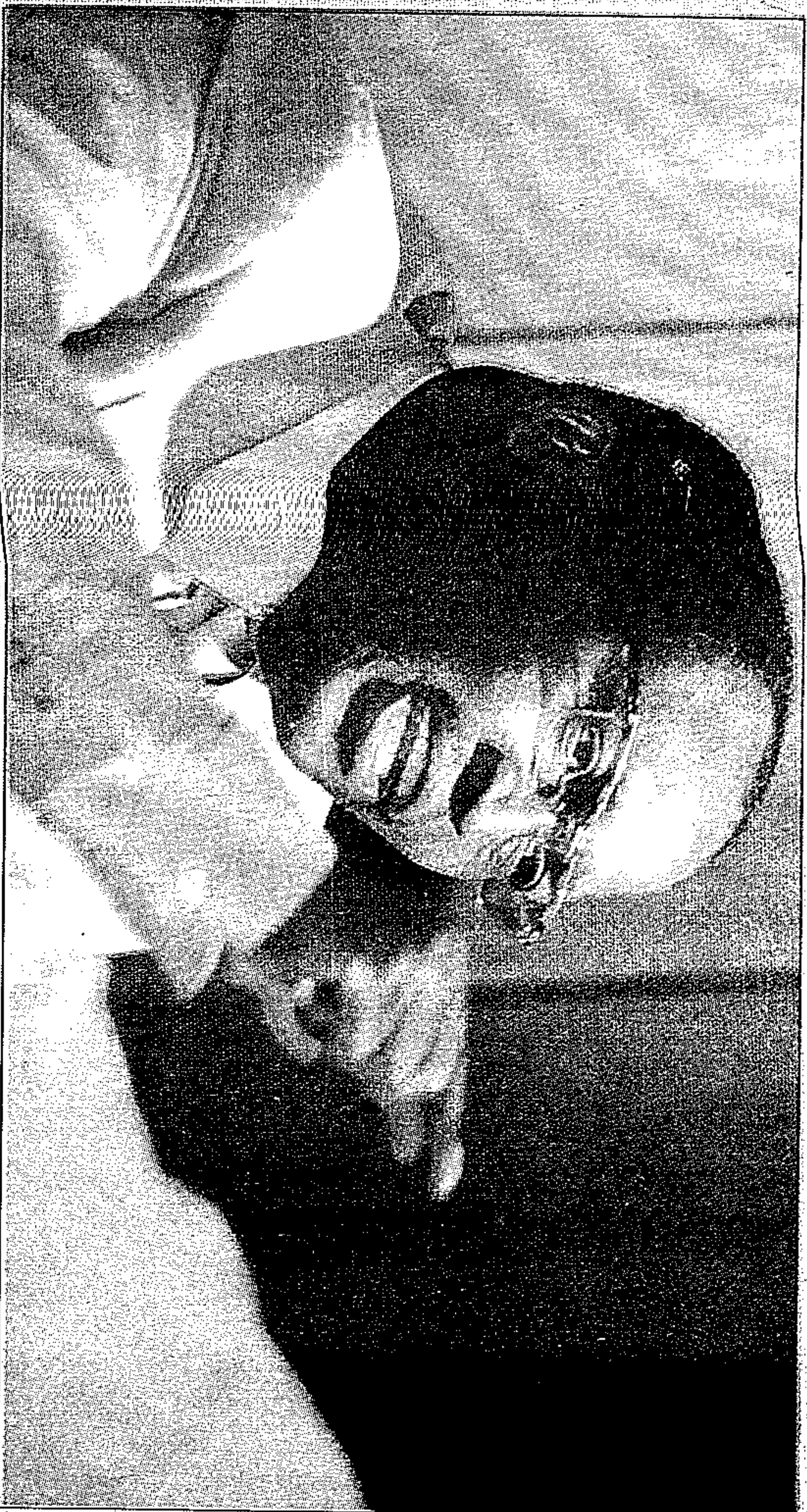
Other predictions by the executives were that during 1998 South Africa's balance of payments on current account would improve; the country would have a net inflow of long-term and short-term capital; net gold and other foreign reserves would improve; and foreign investments would increase.

Apart from predictions about the economy, the executives did not foresee large volumes of foreign and local capital being attracted to South Africa by the country's six-year tax holiday for new manufacturing investment.

About 77 percent of executives also believed that the Basic Conditions of Employment Act would have a detrimental effect on employment.

The major strategic issues facing business in South Africa this year, according to the executives, were economic growth and policies; competition and global competitiveness; the labour market and productivity; government and its policies; crime, violence and corruption; and business confidence.

# NEWS



**EYE ON THE FUTURE** Mzolisi Diliza, *Chairman of Mines' new chief executive, sees mining thriving* PHOTO: JOHN WOODROOF

## Chamber of Mines

### chooses black CEO

ET (B) 30/1/98 2# (176)  
FRANK NKUMALO

LABOUR CORRESPONDENT

Johannesburg — The Chamber of Mines yesterday appointed a black professional, Mzolisi Diliza, as its chief executive officer for the first time in its 108-year history.

Until now, the Chamber of Mines has never had a black executive on its board.

Diliza takes over from Tom Main, who has been at the helm of the organisation for more than nine years.

Bobby Godsell, the president of the chamber, said the critical challenge facing the chamber was to work with the government and labour to ensure that the mining industry "did not (just) survive the present tough market

conditions" but flourished in spite of those conditions.

He said Diliza was "ideally placed to assist in doing this".

In his inaugural speech, Diliza said that although he was aware that he was taking over at a time of heavy job losses, a marked decline in precious metals reserves and grade, high production costs and high levels of competition, he would work hard to make "South Africa a leading mining nation".

Diliza said he would like to change people's perceptions that the mining industry had its "feet in Africa but its heart in Europe".

"We would like an organisation that is politically collaborative, and part and parcel of the new South Africa."

# Mines get black CEO

By Abdul Milazi

THE Chamber of Mines appointed former Independent Development Trust human resources director Mr Mzolisi Diliza yesterday as its first black chief executive officer in 108 years.

The appointment of an outsider represents a radical move from the Chamber's century-old tradition of reserving top positions for individuals in the mining industry.

Announcing the appointment at a press conference in Johannesburg, Chamber of Mines

president Mr Bobby Godsell said Diliza's appointment was not tokenism - all 40 candidates who applied had had an equal chance.

However, Godsell admitted that Diliza (49) knew nothing about the mining industry.

Godsell and Diliza's predecessor, Mr Tom Main, said they believed that the new CEO

would add value and help reposition the organisation. The National Union of Mineworkers,

however, said the random appointment of blacks to top positions raised doubts about

the white corporations' commitment to black economic empowerment.

176  
1998

## SMALL BUSINESS FOCUS

# More black women in Cape

# make a business of success

## Programme shows way to create new jobs

LEWELLYN JONES  
BUSINESS REPORTER

More black women are making their mark in small businesses in the Western Cape with the help of the Centre for

Entrepreneurship, a programme provided by the University of Stellenbosch Business School.

The centre was established last year with R360 000 from Absa to be spread over three years.

Project co-ordinator Fatima Allie said the programme was designed to help women generate business ideas, overcome barriers, run their busi-

nesses more efficiently and improve their personal skills.

Ms Allie said the programme had been particularly successful in preparing the ground for new businesses and jobs.

After the programme held in Saldanha Bay, at least two businesses – a cleaning contractor and a caterer – were already showing a good measure of success.

Ms Allie said the cleaning contractor, headed by Linda Moss, Edna Williams and Rosina Snyders, had already gained a contract at the Military Academy and had been short-listed for a cleaning contract with

Saldanha Steel. Paulina Mall's joint venture with Central Caterers in Saldanha Bay had also been given the contract to run a food kiosk – with an expected turnover of R1-million a year – at Saldanha Steel.

The programme held in Montagu attracted women from Worcester, Zoar, Bonnievale and even Atlantis.

After working in a funeral parlour for several years, Hanneline Jansen now runs a thriving funeral business of her own, says Ms Allie.

In Zoar, where fresh bread was delivered only every other day, Betty Hess and a group of friends established a bakery with financial help

from World Vision. In Bonnievale, Nadia Adams began her own business entrepreneur centre, renting a vacant home in the main street and letting the rooms to other businesses.

Ms Allie said six training programmes would be held this year, beginning in Plettenberg at the end of February, followed by Doornbaai, Khayelithsa, Plettenberg Bay, The Strand and Mitchell's Plain.

Each training course could accommodate 25 people, with the candidates drawn from from Absa's branch network and local non-governmental organisations.

ARL 30/1/98

(176)



AATG 30/1-5/2/98

# First black head for Chamber of Mines

Madeleine Wackemagel

**T**he Chamber of Mines has appointed its first black chief executive officer. Mzolisi Diliza (49) is moving from the Independent Development Trust to take over from Tom Caine, who is retiring at the end of March.

Talk that the chamber's future is in jeopardy was quickly dismissed when officials returned from their bosberaad in Mpumalanga on Thursday.

Announcing Diliza's appointment, Bobby Godsell, president of the chamber and head of AngloGold, pointed to the chamber's crucial role in working with the government and labour to ensure that the industry flourishes well into the next millennium.

Diliza's extensive leadership experience, both at the Independent Development Trust and in the private sector, would help to steer the chamber on that course, he said.

**A** black CEO marks the culmination of the chamber's transformation over its 100-year existence.

For most of its existence the chamber has been the centre of the industry's research, lobbying and marketing activities, but has been gradually scaled down to its current role of advocacy. In this context, says an insider, leadership skills rather than technical know-how are paramount, and Diliza fits the bill.

"This is by no means a token appointment. Diliza is more than qualified for the job."

With the industry as a whole in flux and gold in the doldrums, the chamber still has a role to play as a lobbying force. Godsell has said in the past that if the chamber did not exist, it would have to be reinvented.

"As the industry changes, and mining techniques develop, the chamber will be crucial to facilitating the process. There is no question of the gold industry collapsing; we just have to find new and smarter ways of getting it out of the ground," says a representative.



NEW MAN AT THE HELM... Mzolisi 'Zoli' Diliza, appointed Chief Executive Officer this week of the Chamber of Mining of South Africa.

## NUM questions role of new 'torchbearer'

By ZOLILE NQAYI

THE National Union of Mine workers (NUM) has expressed reservation about the appointment of the new Chief Executive Officer of the Chamber of Mines, Mzolisi "Zoli" Diliza.

Diliza, the former human resources director of the Independent Development Trust, is succeeding the retiring CEO, Tom Maine.

"It is not black economic empowerment as the Chamber of Mines claims. The appointment of someone who has no mining experience debases the whole notion of empowerment," George Molebatsi, NUM's national spokesperson, told City Press.

Molebatsi said economic empowerment "should not be confined to the appointment of an individual" but should rather "trickle down to the whole society".

"We are for black economic empowerment but this is a mockery and it has no meaningful effect on the communities facing retrenchments," he said.

"As the CEO of a conglomerate Diliza is the torchbearer but he

does not have any responsibility. Important responsibilities are still in the hands of the same old people," he said.

Addressing a press conference this week in Johannesburg, Bobby Godsell, President of the Chamber of Mines, acknowledged Diliza's lack of experience and said the new CEO "still has a lot to learn" about the mining industry, but emphasised that his "long and distinguished" career in the construction industry should be taken into account.

Diliza was involved in the construction industry from 1981 to 1988.

Godsell said Diliza could help everyone through the current difficulties in the mining sector.

"For this we will need a public policy environment which encourages growth in mining. With his track record in leadership in both the private sector and in one of SA's largest non-governmental organisations, Zoli Diliza is ideally placed to assist us in doing this," he said.

□ At the press conference Diliza committed himself to "working closely with government and labour" to transform the industry and "to make it truly African".



Mzolisi Diliza ... we have to work with labour and the Government to make South Africa one of the top mining countries in the world.

# Appointment of black CEO raises questions

*Secretan 3/2/98*

By Abdul Milazi

THE appointment of Mzolisi Diliza as the first black chief executive officer of the Chamber of Mines has raised questions about his ability to "reposition" the organisation in the new South Africa.

Firstly, the position of CEO is not as significant as that of the chairman or president, who have decision-making powers. Diliza will be just a worker.

Secondly, the appointment comes at a time when the industry is under strong criticism from labour for the current unprecedented number of retrenchments to save gold mines, most of which have become marginal.

It also comes at a time when there is growing suspicion in the black community that the mines are recruiting blacks at management level to use them to exploit black workers.

National Union of Mineworkers spokesman George Molebatsi says the random appointment of blacks to top positions gives credence to the widely held belief that big corporations are head-hunting blacks merely to gain credibility.

Molebatsi says proof that mining houses are using blacks to exploit black workers is the recent sale of four marginal mines to African Rainbow Minerals, a black consortium.

African Rainbow Minerals will have to introduce long working hours and low wages and retrench many people to bring the mines around.

"Anglo has told the consortium that they don't have to pay now but only when they start making a profit. In fact, what they are doing is using blacks to exploit other blacks while they keep their hands clean," he says.

"At the end of the day the new owners will push workers to the limit to ensure there is some form of profitability. Anglo will get its pound of flesh without getting its hands dirty."

Different mining houses determine their own industrial policies and with the gold price at its lowest, mines are forced to find their own ways of improving profit margins.

Other observers claim that the Chamber of Mines is now a shadow of its former self and no longer has much power over the mining industry. This made it easier for the champions of industry to accept a black at the helm.

Although Diliza's *curriculum vitae* is impressive, he has never worked in

the mining industry. His appointment broke the Chamber's old tradition of reserving top positions for individuals in the industry.

Chamber president Bobby Godsell admitted at a press conference in Johannesburg last week that Diliza knew nothing about mining.

"Diliza is from outside the industry and he will concede that he has a lot to learn about gold mining and the mining industry in general," Godsell said.

Asked if the chamber had made a conscious decision to go head-hunting for a black person, Godsell defended the appointment by saying the new CEO pipped 39 other applicants.

Some journalists, gathered at the Chamber of Mines building to witness this "historic" event, may have begun to believe him when he suddenly seemed to contradict himself.

"When we were looking for a successor, we had to look at the country we are living in," he said.

The second hint of the chamber's real intentions came from Diliza himself, who said the history of the organisation made many black people believe the mining industry had its feet in Africa and its heart in Europe.

## Change perception

"We have to change that perception. We need to create an organisation that is politically collaborative and part and parcel of the new South Africa," said Diliza.

The man - whose surname means demolish in *isiZulu* - has been given the task of reconstructing the image of the Chamber of Mines, although Godsell chooses to call it "repositioning".

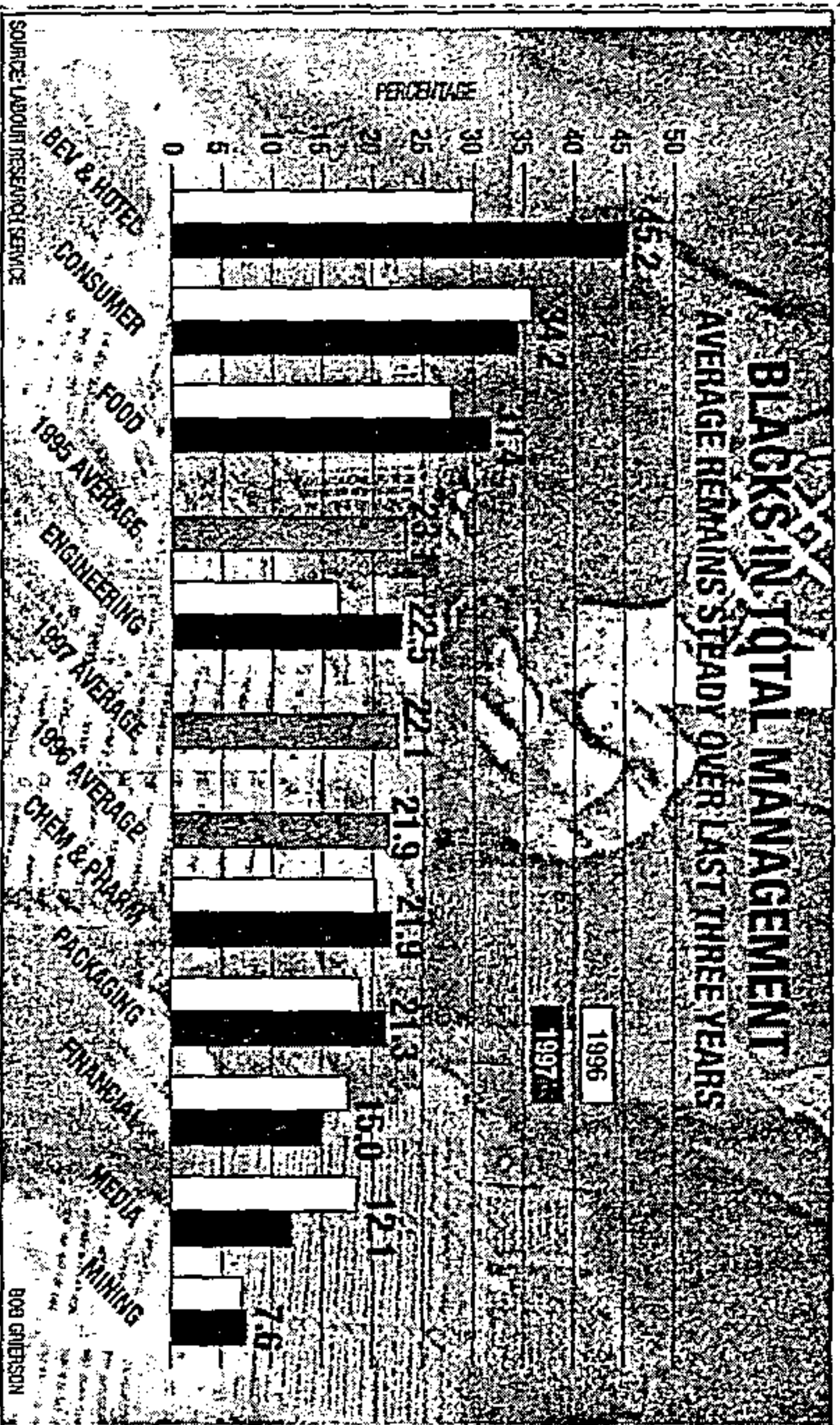
The press conference gave the impression that something was not right. Journalists were not given an opportunity to ask questions.

Molebatsi believes Diliza's appointment was no different from many other token black appointments. "We had Mzi Khumalo at JCI and he resigned after being chairman of the company for only a year."

Diliza admitted that he was crazy enough to join the industry at a time when it is facing difficult times because of the falling price of precious metals and massive job losses.

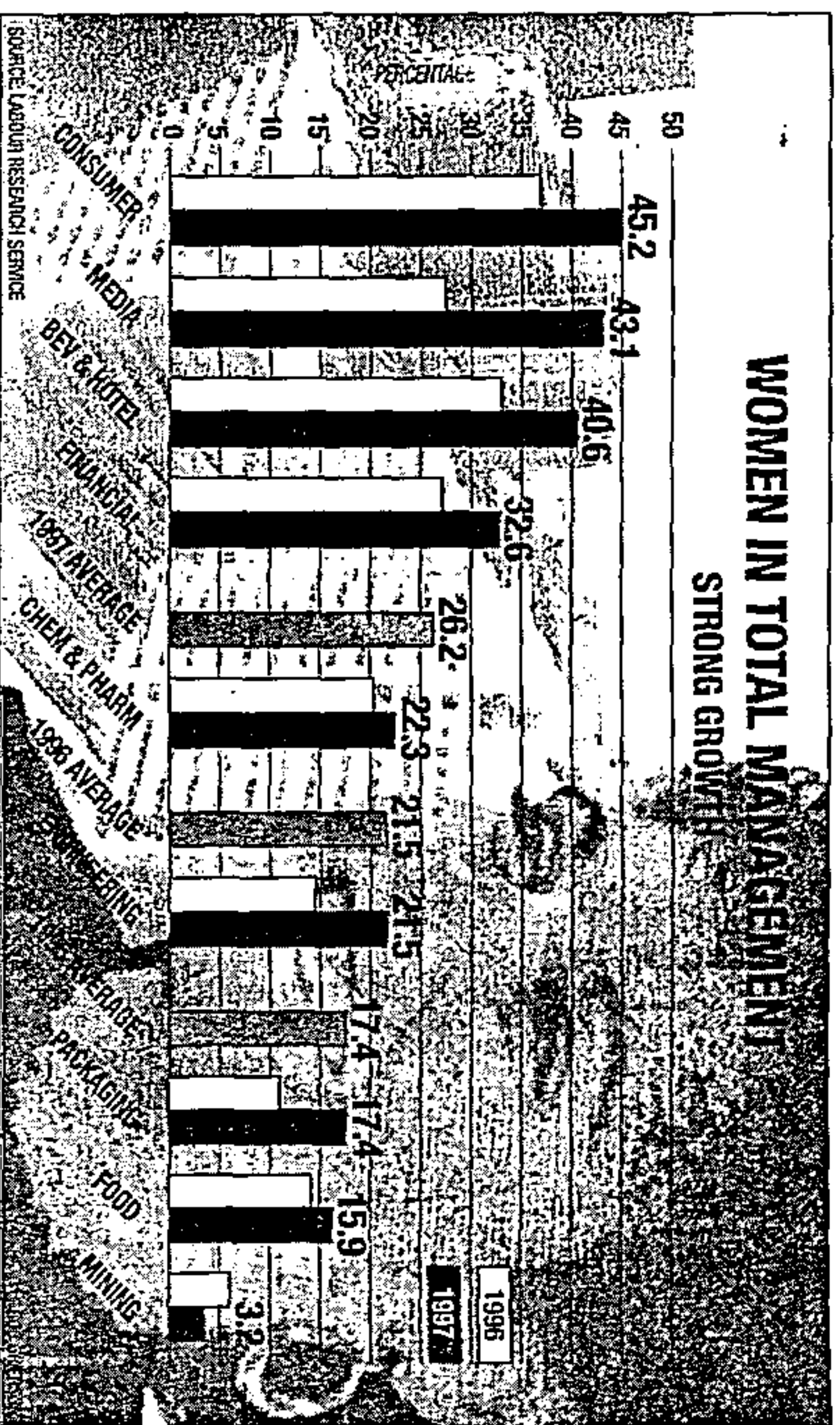
"But we have to work together with labour and Government to make this country one of the top mining countries in the world," he said.

# Corporate SA: the slow pace of change



## INSIDESTORY

Only one in 10 directors of companies is black, and only one company in three has a woman on the board, a Cape Town-based company has found, writes Business Editor ALIDE DASNOIS



## Firms drag their feet in putting women and blacks in top posts

Corporate South Africa is still keeping boardroom doors closed to blacks and women, a new survey shows. The number of black managers and directors hardly increased at all last year; the number of black junior managers actually dropped; and although the number of woman managers did grow, only one in three companies has a woman on the board.

The alarming figures emerge from research by the authoritative Labour Research Service (LRS) in Cape Town. About 50 companies, employing more than half a million people, responded to the LRS survey.

The researchers found that the number of black managers as a percentage of all managers had hardly increased at all during the year, inch-

ing upwards from 21.9% to 22.1%. Only one in 10 directors of companies were black, the survey found. More disquieting, as Parliament prepares to debate the Employment Equity Bill, is the drop in the number of black junior managers from about 34% to 27% of the total, suggesting that the pool from which future senior managers and directors can be drawn is being allowed to dry up.

The Employment Equity Bill will force companies employing more than 50 people to mirror in their workforce, at all levels, the colour and gender distribution of the population - or at least to show progress in moving towards that goal.

Junior staff numbers and numbers of senior executives alike must

reflect the population. "A reduction in black junior managers could severely impact on the number of black senior managers in the future. Hopefully, this is not a case of companies growing complacent on affirmative action," said the LRS researchers.

Blacks had the best chances of making it to management level in the beverage and hotel sector, where more than 45% of managers were black, the survey showed.

Their chances were worst in the mining sector, where fewer than 8% of managers were black.

On the whole, women moved a bit faster up the bottom rungs of the management ladder, but they hardly ever reached the top: the survey found that

the number of woman managers, as a percentage of total management, jumped from under 22% in 1996 to more than 26% in 1997, but at senior management level a plateau was reached at 10.5%.

And boardrooms are still stark to women, who take up only 18 of the 690 seats on the boards of the companies studied. "Women directors are left out of the picture on rather than the rule," said the LRS.

Biggest employers of black managers were SA Breweries, where 624 managers out of 15 876 were black; sugar group Tongaat Hulett, where company Sorviso and retail chain Woolworths (722 black managers out of 18 741); and 698 out of 4 639, Topolig, the... though, for the

proportion of black managers employed, was Cape Town clothing company Rex Truiform, where more than 86% of managers (and all junior managers) were black.

Rex Truiform also topped the charts for the number of woman managers (more than 90%).

L A Stores got more good marks for spending on social projects, coming third out of the 50 companies and setting aside just under 15% of pre-tax profits for social spending.

Rex Truiform, on the other hand, had no social expenditure programme at all.

Although SA Breweries, for instance, set aside a huge R69-million for social projects, this amounted to only 2% of profits.

## Slight boost for training

Slowly, South African companies are realising the importance of spending money on training. The Labour Research Service survey shows a slight improvement in the percentage of payroll spent on training, from 2.5% in 1996 to 3.3% in 1997.

But, the LRS points out, this is still a long way from the benchmark set by the Congress of SA Trade Unions, which is 4% of payroll, and even further from international standards of between 5% and 7%.

Only three out of 10 companies in the survey spent more than 4% on training, although this was an improvement.

ment on last year, when only 17% spent this much. Training, said the LRS, should not be seen only as a cost but as a contributor to a company's growth.

Top five companies with respect to training spending were chemical group Polifin, finance house Gensec, consumer group Cashbuild, L A Stores, and life insurer Momentum.

"All five companies are star performers on the Johannesburg Stock Exchange," said the LRS.

"Their shareholders would hardly fault the directors for their relatively high training expenditure."



# Paranoia over jobs unfounded

CT 10/2/98

**WHITE MALES** in the public service need not fear becoming victims of transformation. **DONWALD PRESSLY** reports.

(176) (170)

**W**HITE males in South Africa may have developed a paranoia about being the victims of "transformation" and "affirmative action" especially in the light of President Mandela's announcement that the public service is to face cut-backs this year.

But the reality is that the cut-backs will, in fact, affect white males very little — with the possible exceptions of the police and army. The lower-level ranks of the public service, staffed mainly by younger blacks, will face the brunt of the new rationalisation wave.

As the public service and administration portfolio committee began public hearings — under the leadership of ANC MP Salie Manie — on the white paper on affirmative action in the public service, a senior government source said that the figure of 300 000 being floated for impending cuts was inaccurate.

Responding to President Mandela's warning in his opening of Parliament speech last week that the public service would not be an employment agency, the source said that a figure of 60 000 for retrenchment was more realistic.

The view that whites — and white males — in particular would be the victims of both the retrenchment and affirmative action policies has been roundly dismissed by policymakers.

While the source objected to the term "oversupplied" departments, those provinces where homeland administrations were combined with old provincial administrations would be cut.

He mentioned the Eastern Cape and the Northern Province. Other provinces such as Gauteng and Western Cape also carried a high ratio of public servants compared to other provinces, taking into consideration demographic factors.

There are about 1,2 million state employees, 386 041 of whom are teachers at public colleges and schools. Uniformed staff in the police and correctional services amount to 138 090 while there are 49 926 uniformed personnel in the defence force.

The remainder, working in state departments in non-uniform positions in the police — pushing up the total number in the police service to 160 998 and the defence force to 94 136 — amounted to a total of 523 638. A further 237 045 were employed in local govern-

ment administration.

White males were no longer predominant in the public service, except in the uniformed branches of the defence force and police.

While black Africans made up just short of 68% of the entire public service — not far of the demographic percentages — whites make up just under 20%. But in the police service and correctional services, Africans only make up 55% of the staff. "So we are not talking about radical ridding of thousands of white people," said the source.

White males were likely to come under pressure in the defence force which has suffered regular budget cuts. Government's policy was to increase reverse the percentage of the budget spent on staff-running at 70% — and procurement — 30%.

Yesterday a range of trade unions and non-government organisations which appeared before the portfolio committee indicated that they had little opposition to the government's affirmative action plans being presented. The mainly coloured National Workers' Union's Mr Ronnie Johnson asked whether the policy would take in the interests of gays and lesbians.

At present the white paper mentions only blacks — including coloureds and Indians — women and the disabled as needing affirmation, through promotion and appointment.

Congress of SA Trade Unions representative Oupa Bodibe argued that a comprehensive employment equity programme should be geared towards:

- Closing the wage gap.
- Flattening hierarchies.
- Ensuring accessibility of the workplace.
- Developing careers through effective training and education.
- Transformation of management practices and organisational culture.
- Reviewing employment practices.

The largely white Public Servants Association cautioned that affirmative action should "avoid the problem of viewing specific racial groupings as being disadvantaged. This approach is regarded as controversial and open for attack," said spokesperson Anton Lowrens.

The union, while not contesting the constitutional need for the public service to be representative of the South African people as a whole, argued that combining the two portrayed "a political interest in long term racial discrimination instead of objectivity towards achieving the constitutional requirements".

# Failure on affirmative action will be 'punished'

David Greybe

CAPE TOWN — Parliament would "punish" departments or provinces which failed to meet affirmative action targets set by central government, public service committee chairman Salie Manie said yesterday.

Manie was commenting during a one-day public hearing on the third draft white paper on affirmative action in the public service.

Affirmative action was here to stay, he said, until the historic imbalances based on race, gender and disability were corrected.

Public service chief director Nozuko Majola-Pikoli said a reworked white paper, which took into account the public's submissions, would go to the cabinet towards the end of the month.

The paper details practical steps departments and provinces must follow in implementing broad affirmative action goals set in other policy documents and statutes like the Employment Equity Bill and the white paper on public service transformation.

Public service director-general Paseska Ncholo said "either the head of a minister or a director-general will roll" if departments failed to meet affirmative action targets. However, Parliament would deal with such matters.

Manie called on the department to

(176) BD/10/2/98  
"strengthen" the section on affirmative action funding to make it clearer money must come from normal budgetary provisions and not from a special central government fund.

Manie's comment came after a number of organisations raised concerns that the funding section was too vague, and might be used as an "escape clause" to avoid implementing affirmative action programmes.

The Congress of SA Trade Unions (Cosatu) said despite the positive aspects, there was a serious omission in that the white paper was "silent on the question of closing the wage gap".

This was especially so as the white paper on public service transformation "commits government to closing the wage gap from the current ratio of 25:1 to a ratio of 12:1 or lower by 1999".

Cosatu called for questions of remuneration differentials to be included in the employee profile to be developed by departments and provinces, as provided for in the white paper.

It said there were "forces", particularly in the Democratic Party and business community, who were trying to create a paranoia about affirmative action. Cosatu said it hoped white people in SA would not allow themselves "to be led up a dead-end by people who are seeking to win their votes by using scare tactics".

# Affirmative action plans fine - Cosatu

(176)  
PARLIAMENTARY BUREAU

Cosatu has rallied strongly behind the Government's public service affirmative action plans.

The union group says the Democratic Party and other opponents of affirmative action policy were using scare tactics of "affirmative action-gevaar" and "transformation-gevaar."

Cosatu said a deliberate policy to lessen labour market inequalities which were a legacy of apartheid was vital to progress.

In a submission to the Portfolio Committee on Public Service and Administration hearing on the White Paper on Affirmative Action Policy in the public service, Cosatu said there was a close correlation between labour market inequalities and societal inequities based on race, gender and physical disability.

"Accordingly, the repeal of discriminatory laws, though necessary, is not sufficient to achieve employment equity. The fact that inequality persists in South Africa in the absence of formal discrimination illustrates this argument," Cosatu said.

"People who are trying to tell others that non-racialism is to be achieved through maintaining the status quo and leaving the inherited structures of privilege undisturbed are trying to block off opportunities to the majority of people," it said.

ARG 10/2/98

# Call for affirmative action to apply to all

(176) Star 10/12/98  
BY MARCO GRANELL

Cape Town – Any public-service affirmative action programme should be continuous and not end once the previously disadvantaged had been accommodated, the Public Servants Association told Parliament yesterday.

In a submission to hearings on the white paper on affirmative action held by the portfolio committee on public service and administration, the PSA said an approach that could eventually include whites should be adopted.

The PSA also said the white paper's proposal to fund affirmative action by using money "already being spent on working facilities, working benefits and training and development" was

"out of line with the financial position of the public service".

At the hearings, Cosatu expressed concern about the planned public-service staff cutbacks announced last week by President Mandela and called on its partners to avoid a "mechanical approach".

It warned that by cutting jobs to provide money for upliftment, programmes could backfire. "A mechanical approach to retrenchments could lead to more clinics and schools with fewer nurses and teachers."

While encouraging the slashing of "bloated bureaucracy", Cosatu called for increased staff in areas of critical need.

It urged the Government to go further with employment equity and narrowing the wage gap.

EMPLOYMENT EQUITY BILL

# Brandishing the big stick

Affirmative action targets raise practical posers

FM 13/2/98

"In the workplace," President Nelson Mandela announced in his opening-of-parliament speech last week, "the departure from apartheid practices will be felt even more keenly as we finalise and implement the Bill on Employment Equity."

His government would "not be discouraged by the sirens of self-interest that are being sounded in defence of privilege, and the insults that equate women, Africans, Indians, coloureds and the disabled with a lowering of standards." Affirmative action is corrective action, Mandela insisted. "There is no other way of moving away from racial discrimination to true equality."

Thus far, the only "sirens" against the Bill have been sounded by SA Institute of Race Relations special researcher Anthea Jeffery, who has raised pertinent practical questions, and the Democratic Party, which has described it as a step towards the "reracialisation" of SA. These issues will doubtless be taken up in negotiations at Nedlac starting later this month.

Among them are: the precise meaning of "indirect" discrimination; the fact that it reverses the normal onus of proof (employers have to prove they have not contravened the law); and how "reasonable progress" towards numerical goals of representivity is to be achieved in five years without unfairly dismissing employees.

Jeffery's most sensational point is that the call for companies with 50 or more staff to seek "equitable representation" of blacks, women and the disabled at all levels, including senior management, implies a work force that in five years will have to be 75% black, 50% female and 5% disabled.

Labour director-general Siphos Pityana this week slammed that interpretation as a scare tactic, and emphasised that the Bill lets companies set their own equity goals. He said other factors, including the "pool of suitably qualified people", had to be taken into account; "mere under-representation of designated groups would not *ipso facto* be proof of discrimination."

Business SA (BSA) will be seeking clarity on precisely the kind of questions Jeffery has raised, and will argue in the Nedlac talks for "more carrots, fewer sticks".

Business accepts in principle the need for affirmative action "in some form" and said so in its response to the Equity Green Paper (which it rejected) in July 1996. "It is the content that needs clarification," says BSA social policy vice-chairman and Sanlam human resources GM Vic van Vuuren.

"We'd like to see more of an enabling Bill that encourages transformation, rather than a punitive approach," he says, referring to fines for noncompliance ranging from R500 000 in year one to R900 000 in year five, plus possible compensatory and punitive damages for unfair discrimination.

BSA says the Bill should, like other labour law, be decriminalised and that employers' liability is too broadly defined.

Other BSA concerns are the costs of administering equity plans and their effect on small businesses "because this is where job creation and stimulus to growth occur". The organisation will argue that the Bill should apply to companies with significantly more than 50 employees.

BSA also questions the apparent reintroduction of race classification in the Bill's quest to make designated companies mirror the national or regional population mix.

There are an estimated 10 000 such companies. The Bill obliges them to prepare and implement an employment equity plan, lodge the plan with the Department of Labour within 18 months of the Bill becoming law — probably in June — and report annually on its implementation.

Labour Minister Tito Mboweni does not see affirmative action as a permanent feature of the labour market, which is why progress will be reviewed in seven years.

But, he warns, "for as long as discrimination obtains, so will measures to prohibit it."

Amarnath Singh

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# ...and a building giant is accused of bias

Ann Eveleth

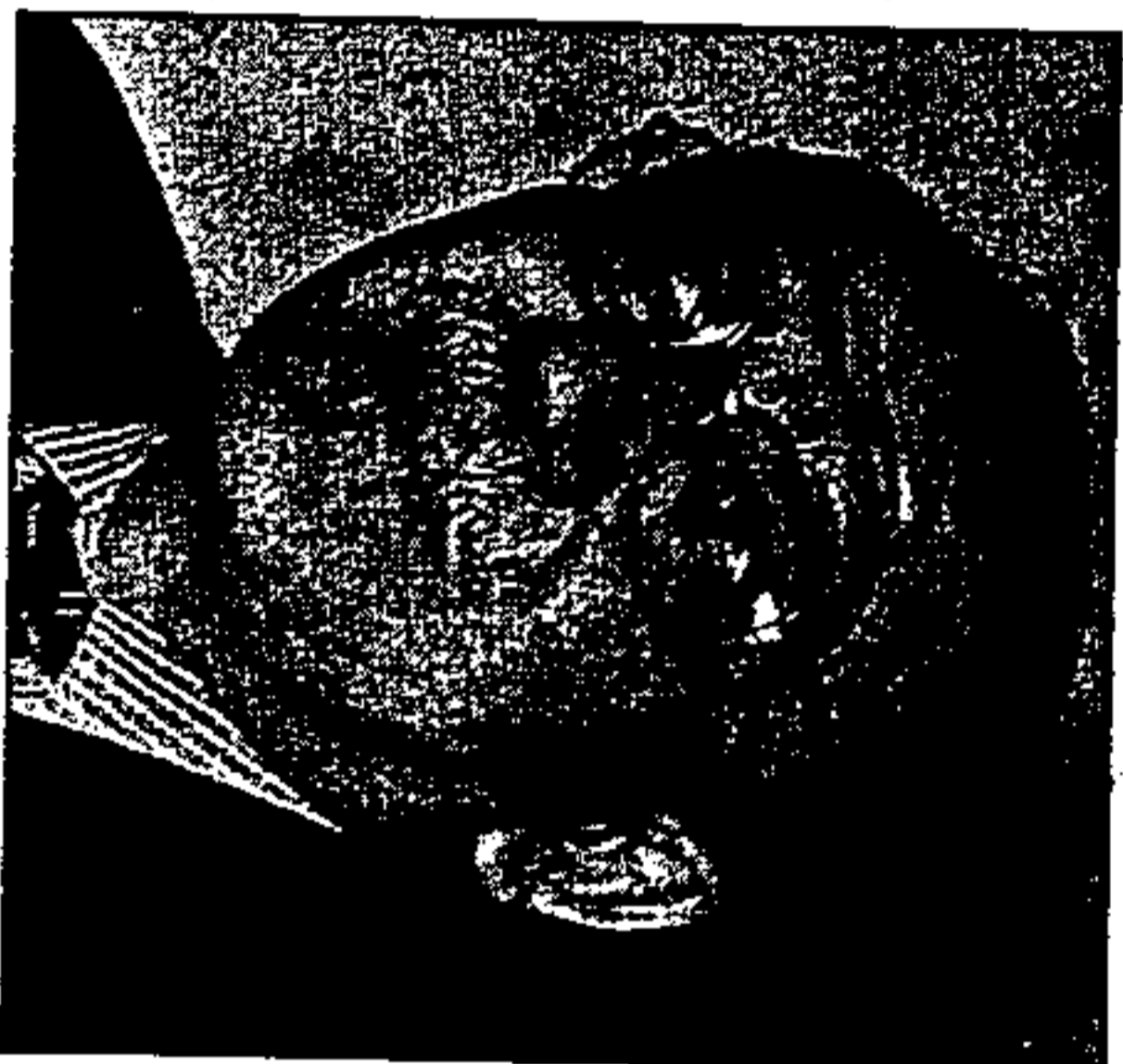
**M**inister of Water Affairs and Forestry Kader Asmal undertook this week to launch an inquiry into allegations that building consortium Group Five refused to consider highly qualified candidates for senior posts because they were black or female.

Executive recruitment firm Dick Muller CC blew the whistle on the construction, engineering and works giant. "They hired me to recruit for two positions in Natal and one in Cape Town. I told them I had several highly qualified candidates, including several solid black and female applicants, but they told me, 'Sorry, no blacks, no women,'" said Muller.

He is now fighting for payment Group Five denies it owes him, since the positions were never filled.

Muller said the company's attitude took him by surprise: "I was quite pleased to be able to offer them highly qualified black and women candidates, knowing that many firms are looking for good people to help them implement affirmative action.

"When I called [Group Five building division human resources direc-



Kader Asmal: Won't allow 'racial buffoonery'. PHOTO: RUTH MOTAU

tor Johan] Gouws ... he told me: 'It's my fucking prerogative to do that.'"

Gouws told the *Mail & Guardian* racial and gender job reservation is not Group Five policy, but could not immediately deny he had applied it to the positions in question. He called the issue "an internal matter that is being dealt with internally". The group's human relations director, Plet du Preez, declined to comment on "an internal business matter". Group Five is the recipient of sev-

eral government contracts, including two rural water-supply contracts worth half a billion rands, and has won many of its tenders on the basis of support for affirmative action and black economic empowerment.

Asmal said the group's contracts with his department stipulate a 12% to 14% reservation for previously disadvantaged groups. "I will call for an inquiry on whether they have performed on the contract," he said.

Du Preez said Group Five supports "the empowerment of black business and evolving a profile in keeping with the new South Africa", but he admitted the majority of the company's black employees are found in the lower-skilled, semi-skilled and administrative sections.

"At executive level ... only 9% of employees at this level come from previously disadvantaged groups," he said. Only one out of more than 50 directors of the company and its subsidiaries is black. Du Preez blamed these difficulties on "the current skills shortage, coupled with historically poor levels of education in science and engineering disciplines".

But Muller said his mandate was to recruit two human resources managers and a quantity surveyor/com-

MTG 13-19/2/98  
(176)

mercial manager, not engineers.

"I found one potential candidate with a law degree, a masters diploma in labour law, a solid job record with 15 years' experience in human relations management, but I couldn't consider him."

Muller said he convinced Gouws to set up an interview for a female candidate, but "nobody bothered to pitch up". The woman was eventually interviewed, but spent half the time filling out forms. "They already had my CV and at my level you don't expect to fill out forms during an interview. We generally talk to each other," she said.

Du Preez pointed out that Group Five supports black education and training, and has been involved in several joint ventures with black partners.

Asked whether such joint-venture partners might fulfil Group Five's contracts with the water affairs department, Asmal said: "Our contract is with Group Five. I don't care a title about sub-contractors."

"If [Muller's] allegations are true, I want a repudiation from all the companies involved. We can't allow this kind of racial buffoonery to continue."

# Eskom exceeds 30% affirmative action goal

Robyn Chalmers

ESKOM exceeded a self-imposed affirmative action target of 30% of its management by the end of last year, and now aims to have 50% of its managers from previously disadvantaged communities by the turn of the century.

Electricity industry and union sources said at the weekend the affirmative action policy had caused unhappiness in certain circles in Eskom and led to a significant number of people leaving.

"It is difficult to estimate how many employees have left — it could be up to 5 000. But they have generally been replaced by competent, well-trained personnel so there have been few hitches for Eskom as a service provider," one source said.

Eskom estimated in 1992 that only 5% of its management was black and it set a target that by last year 30% should be from previously disadvantaged communities. It reached 32% and is well on its way to meeting the 50% target.

Eskom sources said the electricity utility had steered clear of making token black appointments by recruiting people with university degrees and a

good reputation, and employing them at middle-management level. They then had between six months and two years to prove their mettle.

Eskom has previously stated that it would not employ a policy of forced retrenchment to implement its affirmative action policy. Depending on age, employees whose positions became redundant could ask to retire, transfer to another position or opt for "voluntary separation".

The sources said that while Eskom's labour bill could rise due to retrenchment payouts, this was unlikely to affect the price of electricity due to an expansion of the network and increased productivity.

However, predominantly white trade unions said Eskom was losing experienced people "in droves" as a result of its affirmative action policy.

Eskom's employment levels had remained steady at about 40 000 people for the past five years, despite the utility employing a significantly higher number of black people.

"This means that employees are leaving the organisation and there is certainly a lot of dissatisfaction," one trade union official said.

SA (176)

2016/2/98

# Equity Bill will give unnecessary power to bureaucrats

**FRANK NXUMALO**

Johannesburg — The Employment Equity Bill would make for a bloated bureaucracy, giving officials "sweeping powers to finger records, plans and structures of business and meddle with the everyday running of companies", Solly Tucker, the chairman of the Institute of Directors, said yesterday.

He said such outside interference would multiply business risks and inhibit growth, which would shrink employment, stifle opportunity and damage the prospects of a company and its people at all levels.

Tucker said that although the Institute supported the eradication of discrimination and recognised the need to tackle racial and other disparities in the distribution of jobs, occupations and incomes, the

bill was seeking to remedy the imbalances of the past". Tucker said: "We cannot beat unfairness with unfairness. The presumption of innocence is a bedrock tenet of our sense of justice.

"We thought that with democratisation we would be rid of the heavy hand of big brother. "This law would favour strong-arm authoritarianism," he said.

~~11/17/98~~ (17/98) CT (MR) 17/2/98



## Affirmative action quotas seen as 'moving targets'

Nicola Jenvey

(176)

DD 19/2/98

DURBAN — Affirmative action quotas were moving targets for development finance agencies such as the KwaZulu-Natal Finance and Investment Corporation, and served as the spawning ground for black managers in the private sector, corporation executive director Marius Spies said this week.

Spies said although the corporation's current black management profile of 31,7% was more than double the national average of 12,57%, as set out by the Breakwater Monitor affirmative action research unit, staff turnover was accelerating.

It was pleasing that the corporation, which had practised affirmative action longer than most private companies, had a black management profile more than 19% above the national average.

"This figure could have been higher had a significant number of black managers not left last year. The loss of a disproportionate number of managers makes attaining top-end affirmative action targets more difficult, but not impossible," Spies said.

## Bill's reverse racism label denied

Vuyo Mvoko

30/19/2/98  
CAPE TOWN — The chief drivers of the proposed Employment Equity Bill dismissed accusations yesterday that it advocated reverse racism and was an indication of government's intention to meddle in affairs that ought best to be left to business.

They admitted, however, to some of its shortcomings. Labour director-general Siphon Pityana and equal opportunities director Loyiso Mbabane, who co-ordinated the drafting of the bill, were clarifying content before Parliament's labour portfolio committee.

The bill, which was calling for equal

(176)  
employment opportunities for blacks, women and the disabled, addressed itself also to "standards", Pityana said.

Those who argued that affirmative action would lead to lowering of standards were under the misconception that the bearers of standards were only white and male, he said.

Pityana dismissed critics of the bill who argued that the matter should be left to market forces as "misguided".

"Direct government involvement (was necessary as) the situation never resolves itself," Pityana said, referring to experience drawn from countries like the US, UK, Canada, Zimbabwe and Namibia.

# Employment bill fails to reduce apartheid wage gap, say unions

René Grawitzky

THE Employment Equity Bill had failed to include a strategy to bring about the reduction of the apartheid wage gap, labour said yesterday in its response to the bill ahead of the resumption of negotiations today.

Labour — in what was supposed to be a joint Congress of SA Trade Unions (Cosatu), Federation of Unions of SA (Fedusa),

National Council of Trade Unions (Nactu) position — said it supported the underlying philosophy and, in most instances, the bill's broad strategy.

However, areas of concern related to the definition of designated employer; the failure of the bill to give legislative effect to facilitate the closure of the wage gap and the lack of an effective mechanism to compel employers to implement measures.

Labour said the bill and the original green paper laid great stress on the high levels of wage and income inequality as a central legacy of the apartheid labour market. The documents implied that addressing these disparities was an important element of the employment equity strategy. Labour, however, believed the bill failed to give effect to this concern.

The bill could not only be confined to a

degree of horizontal equity, "where there is racial and gender representivity within a particular strata of the labour market while there continues to be huge vertical inequality — between those at the bottom and those at the top".

Fedusa general secretary Chez Milani said it appeared that Fedusa's position had not been adequately captured in the joint position on this issue.

Wage differentials as a central theme was not the focal point of employment equity legislation, he said. Proposed legislation should deal with horizontal equity.

Labour said it welcomed the bill's underlying philosophy which sought to advance the need for a comprehensive approach to the redressing of the legacy of discrimination and inequality in the labour market, in order to achieve the goal of employment

equity. This was opposed to adopting a narrow focus aimed at promoting a small number of individuals into senior positions.

Labour went on to say that "a narrow state-driven strategy, relying exclusively on the imposition of affirmative action quotas, would have had serious drawbacks. Such an approach would have resulted in the promotion of a few individuals who would not have advanced empowerment.

BD 5/3/98

(172)

# Employment Bill divides business

Sowetan 5/3/98

By Abdul Milazi

THE passing of the Employment Equity Bill by Cabinet last month has polarised black and white business – they do not agree on how it will affect small business.

In one corner is the South African Chamber of Business (Sacob), which argues that the Bill will be "a crippling burden for many small- and medium-sized businesses".

In the other corner is the Black Management Forum (BMF), which argues that "the journey towards true non-racialism will not even start until there is sufficient embracing of human resource transformation and affirmative action as the key means for the normalisation of the workplace".

These two views sum up the feelings of the communities represented by the business groups.

Sacob spokeswoman Janet Dickman said her organisation believes "the Bill, with its overemphasis on numerical targets, would raise expectations unrealistically and eventually lead to serious problems for business and Government".

She further argued that the Bill would erode investor confidence, particularly if foreign companies found their ability to transfer highly skilled personnel to South Africa was severely restricted.

BMF president Lot Ndlovu, on the other hand, said the Bill needed to be strengthened and refined before becoming law. "It must define affirmative action properly and position it unambiguously as the chief instrument for creating diversity and equity."

Ndlovu argued that those who opposed the Bill were ironically those whites who claimed to espouse democratic values. He said the one value they lacked was the willingness to submit to black leadership.

"They simply cannot deal with the fact that the initiative or stage no longer belongs to them only. Their loss of influence over blacks has resulted in anger and panic.

"They feel personally excluded. They are unfortunately aided by a few black apologists."

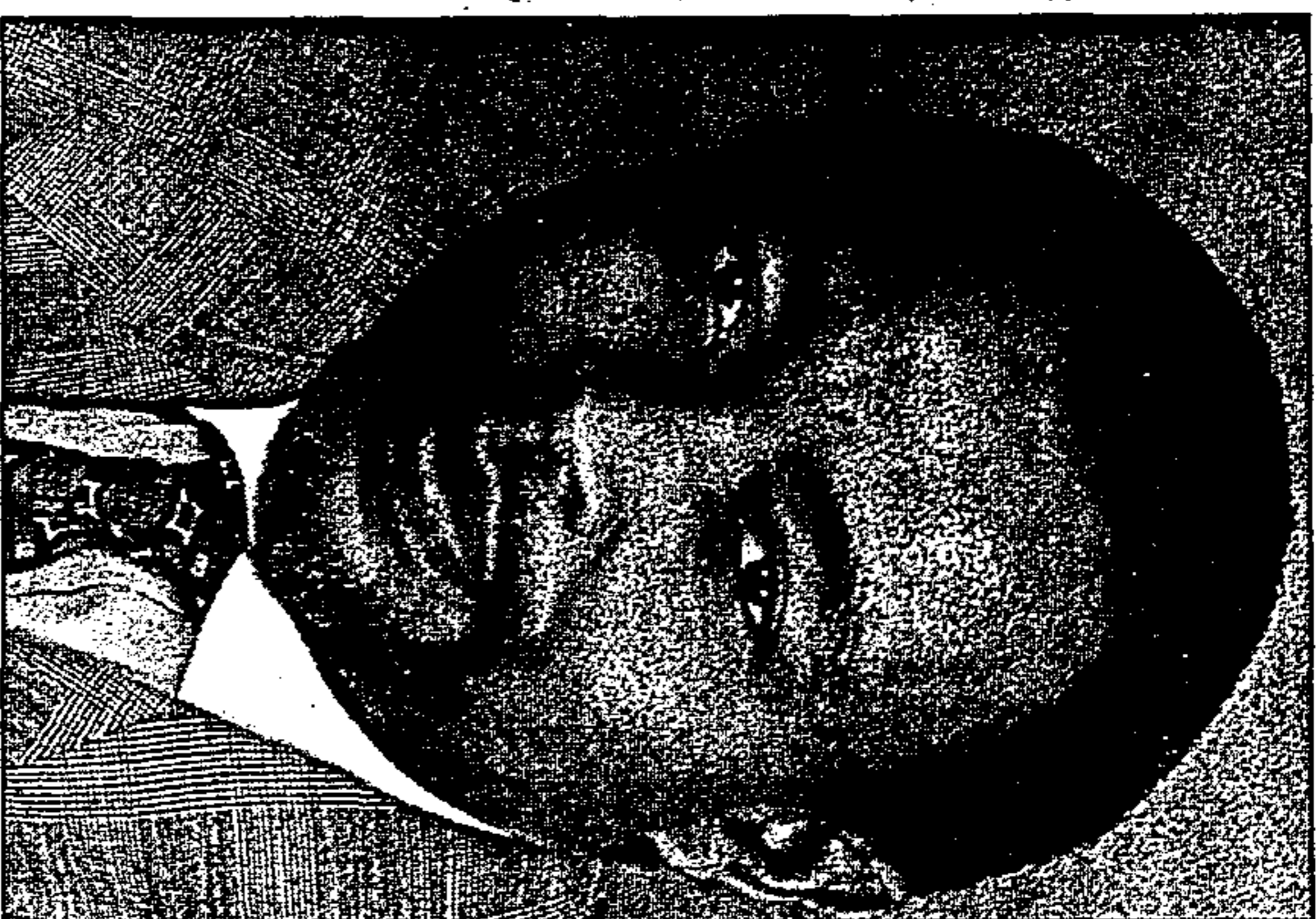
Dickman countered: "We support the need to redress the under-representation of blacks, women and disabled in South Africa and to counteract the historical patterns of disadvantage. This has been our emphatic position since the formation of Sacob in 1990.

## Undermine productivity

"But we sincerely believe the Bill will undermine productivity, efficiency and morale and strengthen the reluctance of companies to employ precisely in those sectors that afford the greatest opportunities of creating new job opportunities."

Sacob has called for all labour legislation, including the Employment Equity Bill, to be held back pending the proposed presidential job summit later this year.

The BMF and trade union federations such as the Congress of South African Trade Unions and National Council of Trade Unions, are pushing for the speedy passage of the Bill.



Black Management Forum president Lot Ndlovu.

Ndlovu said: "The political and racial structuring of business has not only resulted in the physical exclusion of blacks from meaningful roles, but also in engendering a sense of alienation.

"The inability of blacks to identify with companies they worked for manifested itself in inefficiency, under-performance and destructive tendencies."

He argued that the appointment of "unsuitable" whites to key positions simply on the basis of their skin colour also contributed to the negative attitude of blacks towards the companies they worked for and their jobs.

Ndlovu said oppositions of the Bill failed to come up with alternatives to affirmative action. He said white business saw the Government as "shy on business transformation and for nearly four years marked time and continued virtually with business as usual".

However, Sacob feels the punitive measures in the Bill were deeply worrying and should be reconsidered. "The trend is to decriminalise labour, yet the proposed level of fines virtually equates a transgression in employment practice with major criminal activity," said Dickman.

She said several terms used in the parts of the Bill dealing with the regulation of affirmative action were vague and ill-defined, and would lead to uncertainty and a proliferation of disputes.

"The Bill gives ample scope to justify about any action in the realm of employment to be judged unacceptable by a Government official and thereafter subject to punitive penalties."

The BMF, however, feels the punitive measures should be stricter and that the proposed Employment Equity Commission should have statutory powers instead of the advisory powers proposed in the Bill.

**Must have teeth**

"The commission itself must be statutory and independent. It must have teeth. Its composition should not be confined to National Economic Development and Labour Council participants only.

"The Black Business Council and the Human Rights and Gender Commissions should also be represented on the commission," said Ndlovu.

He said the Bill should require industries to set benchmark affirmative action targets and the commission should ensure those targets were met.

"The penalties provided in the Bill for companies failing to implement affirmative action should focus on non-administrative aspects of the Bill's provision such as the corporate culture change interventions and feedback from black managers, women and the disabled on their progress in the company," Ndlovu explained.

He said affirmative action should be defined as a means of changing the culture, policies and practices of business.

# Cosatu supports labour Bill

*Nowetu 6/3/98 (176) (176)*

By Abdul Milazi

THE discussion of affirmative action in South Africa runs the risk of focusing narrowly on the promotion of few individuals, leaving the pattern of apartheid labour market discrimination undisturbed.

This is the view of the Congress of South African Trade Unions (Cosatu) in its submission document on the Employment Equity Bill released yesterday.

Cosatu spokeswoman Nowetu Mpati argued that the mere repeal of past discriminatory laws was insufficient to tackle this legacy and that market forces would continue to replicate inequalities and social imbalances if left unchecked.

Mpati said Cosatu "welcomed

the underlying philosophy of the Bill because it advanced the need for a comprehensive approach to the redressing of the legacy of inequality in the labour market."

The Bill, which has been approved by Cabinet and will now begin the lengthy parliamentary process before its final promulgation later this year, calls for a programme of positive measures to overcome the inequalities in the labour market.

It focuses on the systematic advancement of historically disadvantaged groups rather than the promotion of a few individuals.

Mpati argued that far from acting as a barrier to economic growth as claimed by white business, such measures were a necessary condi-

tion for sustainable economic development.

This approach is based on the equality clause of Section 9 (2) of the Constitution, which lays the basis for legislative and other measures to achieve equality for those disadvantaged by unfair discrimination.

"We support the broad strategy outlined in the Bill for the achievement of employment equity," she said.

"The Bill will force those who pay lip service to employment equity for women, blacks and the disabled," Mpati said.

Labour has, however, argued that the main problem with the Bill was that it relied too heavily on the good will of employers to implement its measures.

Forum to  
focus on (176)  
affirmative  
action

STAFF WRITER

HIGH-PROFILE international and local lecturers and advocates in areas ranging from women's and human rights to ethnic and multi-cultural education will attend a public forum next week to discuss affirmative action.

The forum, at the Peninsula Technikon in Kasselsvlei, Bellville South, is the final leg of a "traveling seminar" that starts in Durban tomorrow, moves for two days to Fort Hare University in the Eastern Cape from March 17, before moving to Cape Town.

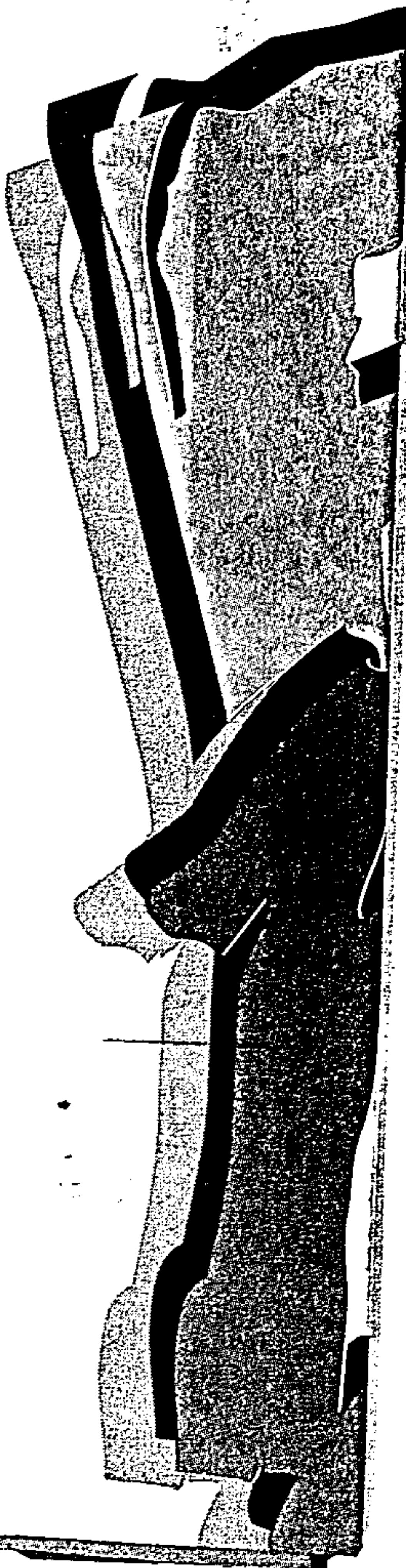
The overall theme of the conference is *Diversity and Unity: The Role of Higher Education in Building Democracy* and involves representatives from South Africa, India and the US.

It is being co-ordinated by the Centre for Higher Education Transformation and sponsored by the influential Ford Foundation.

The Cape Town panelists will include Dr Barney Pityana, chairman of the Human Rights Commission, Ms Naledi Pandor, MP and deputy chief whip of the ANC, Mr Arjun Dangly, political activist, writer and president of the State Unit of India's Bharatiya Republican Party, and Dr Yolanda Moses, president of New York's City College.

The Peninsula Technikon forum starts at 9am next Friday. For more details, call (021) 959-6273/6200.

PRICES  
VALID UNTIL  
SUN 15  
MARCH '98



ET 12/3/98

# Mboweni calls on whites to accept the change (176)

JÓVIAL RANTAO

LABOUR Minister Tito Mboweni has dismissed "as a storm in the tea-cup" the controversy around affirmative action legislation and said that South Africa, more than any other country, needed intervention by the government to deracialise its workforce.

Addressing a press conference in Parliament yesterday, Mboweni said the deracialisation of opportunities and practices — as envisaged in the Employment Equity Bill — was the essence of transformation in South Africa.

He said opponents of the bill — currently being negotiated at the National Economic Development and Labour Council and expected to be tabled in Parliament in June — confused the issue of deracialisation with re-racialisation.

"Any efforts to address the fact that blacks, who are in the majority in this country, are still denied opportunities in employment, because of their race, is rejected on the ridiculous grounds that this would be racist. This leads to a circular and fruitless argument, whereby we would never be able to address the racial inequalities because we can no longer talk about race.

"Whilst the continued preference of white males in some sport codes is so despicable as to warrant a special presidential commission, the denial of opportunities to the majority in employment is worse

CT 13/3/98 (176)  
because it impacts directly on people's livelihoods," he said.

Mboweni said the continued denial of opportunities to women, blacks and people with disabilities in the work place affects their prospects for advancement and development which, in turn, affects economic growth.

Incentives offered by the legislation to companies which comply would include access to State contracts worth R65-billion per annum. On the other hand, companies which fail to eliminate discrimination in the work place and introduce equal opportunities will face heavy fines and will be denied access to the lucrative state contracts.

Mboweni said the bill has been supported by business, trade unions and he called on white South Africans to support it.

"They must support these measures because they will ensure long term stability in the country and they will also ensure that we develop skills and competencies that will enable us, as a country, to sustain growth and development. It is very short-sighted for whites to want to cling to special and under-served privileges that were conferred to them during apartheid, merely on the basis of their skin colour. This is yet another opportunity for white South Africans, in particular, to embrace transformation, in deed, and not just in empty words," Mboweni said.



TITO MBOWENI

# Mboweni takes swipe at critics

ET (BR) 13/3/98 (166) (176)

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — Tito Mboweni, the labour minister, said yesterday that his labour reform programme for 1998 was on track, but hit out at "short-sighted" criticism of his affirmative action bill.

The first phase of the Basic Conditions of Employment Act would be promulgated in two phases starting this month, Mboweni said.

He rejected criticism of the Employment Equity Bill and called on employers to help tackle the "urgent" task of deracialising South Africa's workforce.

He hoped to see both pieces of legislation fully in place by the end of the year, despite criticism from some sectors.

Mboweni said the first phase of the Basic Conditions bill — dealing with the prohibition on child labour and forced labour, the establishment of the employment conditions commission, sectoral determinations and the



**NEW ERA** *Tito Mboweni, the labour minister*

earnings threshold for working time — would be promulgated on March 21, Human Rights Day.

"The promulgation of these chapters will assist with the implementation of the rest of the act as well as ensure a smooth transition between the wage board and the employment conditions commission," he said.

The rest of the act, covering the new basic conditions of

employment, will be promulgated between August and October to give employers and employees time to make the necessary changes to contracts.

These adjustments include changing overtime rates from time-and-a-third to time-and-a-half, cutting working hours to 45 a week and amending notice periods for termination of service.

Mboweni said public comments on the Employment Equity Bill had been forwarded to the National Economic Development and Labour Advisory Council, but he hoped it would go to parliament for possible public hearings by June and be passed soon afterwards.

He criticised what he called "misguided opposition" to the bill by people who he said confused "the issue of deracialisation with reracialisation".

He said there was "no country at present that needs more urgent intervention by government to deracialise its workforce than South Africa does."



# Minister dismisses affirmative-action controversy as 'storm in teacup'

BY JOVIAL RANTAO  
Political Correspondent

Cape Town - Labour Minister Tito Mboweni has dismissed "as a storm in the teacup" the controversy around the affirmative action legislation, and said South Africa, more than any other country, needed government intervention to deracialise its workforce.

Addressing a press conference yesterday, Mboweni said the deracialisation of opportunities and practices - as envisaged in the Employment Equity Bill - was the essence of transformation in SA.

He said opponents of the bill - currently being negotiated at the National Economic Development and Labour Council and expected to be tabled in Parliament in June - confused the issue of deracialisation with reracialisation.

"Any efforts to address the fact that blacks, who are in the majority in this country, are still denied opportunities in employment because of their race is rejected on the ridiculous grounds that this would be racist. This leads to a circular and fruitless argument, whereby we would never be able to address the racial inequalities because we can no longer talk about race. The deracialisation of opportunities and practices in employment has to take place and this, in fact, is the essence of the transformation of South Africa.

"While the continued preference of white males in some sport codes is so despicable as to warrant a special presidential commission, the denial of opportunities to the majority in employment is worse because it impacts directly on people's livelihoods. The continued denial of opportunities to

women, blacks and people with disabilities in the workplace affects their prospects for advancement and development, which in turn affects their motivation and commitment, which has negative effects for productivity and therefore economic growth.

"As a result, the biggest loser from discrimination and the denial of opportunities, in the long run, is South Africa itself. The need for government intervention has never been greater. But, are we overly prescriptive?" Mboweni said.

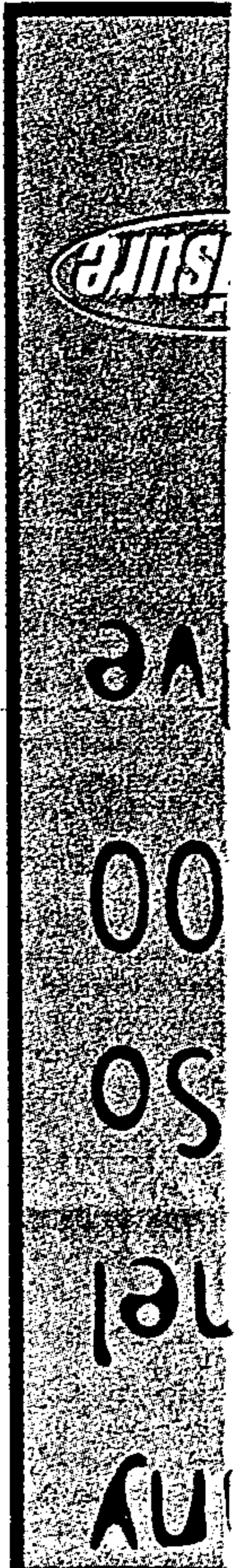
Incentives offered by the legislation to companies that comply would include access to state contracts worth R65-billion a year. On the other hand, companies that fail to eliminate discrimination in the workplace and introduce equal opportunities would face heavy fines and be denied access to lucrative state contracts.

Mboweni said the bill had been supported by business and trade unions, and he called on white South Africans to support it. "They must support these measures because they will ensure long-term stability in the country and they will also ensure that we develop skills and competencies that will enable us, as a country, to sustain growth and development.

"It is very shortsighted for whites to want to cling to special and undeserved privileges that were conferred to them during apartheid, merely on the basis of their skin colour.

"This is yet another opportunity for white South Africans, in particular, to embrace transformation, in deed, and not just in empty words," Mboweni said.

ON YOUR BEHALF



POLICE FORCE

(176)  
RM 13/3/98

## Affirmative action cop-out?

Fivaz, union collide on appointments

Police management and leaders of the Police & Prisons Civil Rights Union (Popcru) differ on affirmative action in the SA Police Service, but the facts favour the union.

Official statistics show that in KwaZulu-Natal, senior positions are dominated by Indians and whites, who outnumber their African counterparts by almost four to one.

Figures from provincial police representative Bala Naidoo show that 783 white, 679 Indian, 378 African, and 22 coloured commissioned officers were promoted through a programme called "en masse". Police Commissioner George Fivaz introduced this programme with the stated purpose of allocating human resources efficiently and breaking up apartheid-era cliques. Every commissioned officer — from captain to superintendent — had to reapply for his or her post.

Management sees "en masse" as the way forward, but Popcru regards it as an obstacle to affirmative action and wants it scrapped. Fivaz has refused, but has agreed to its suspension in KwaZulu-Natal.

"We want affirmative action first. Then if there are still vacancies we can start talking 'en masse'. The two cannot coexist because 'en masse' removes opportunities for affirmative appointments," says Popcru spokesman Siza Doncabe.

Management has compounded the problem. Vanessa Gounden of the police National Equity Component points out that in the last round of KwaZulu-Natal appointments, 62% of promotions to senior positions went to white men.

Failure to agree on an acceptable affirmative action programme has sparked tension at police stations. This frequently translates into open hostility.

In one such case, a newly appointed Indian superintendent of Umbumbulu police station, south of Durban, got a hostile reception from subordinates demanding that he "go home to India".

Other stations in the province have encountered similar difficulties, including Thornville outside Maritzburg, Umgababa, and Umlazi and KwaMashu in Durban.

Gounden stresses that though the problem of racial tension in the police is acute in KwaZulu-Natal, it is not unique to the province.

Herb Payne

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## Bosses fear jobs will have to fit applicants

(176)  
Reneé Grawitzky

POD 18/3/98

TALKS on the Employment Equity Bill move into top gear this week, amid rising employer fears of amendments which could force them to modify jobs to suit applicants.

The Black Management Forum — supported by sections in labour — has called for the scrapping of section 12 (3) of the bill. This states that in implementing employment equity, employers are not required to appoint or promote the "designated group" — blacks, women and disabled people — who are not suitably qualified for a position. This clause states also that government cannot force a company not to employ those outside the designated group, implement quotas or create new positions.

The scrapping of this clause is central to employer concerns about the bill and will be debated at the resumption of negotiations in the National Economic, Development and Labour Council (Nedlac) today.

Closing date for public submissions was last month, and parties are supposed to complete negotiations by the end of this week.

Employers approached Labour Minister Tito Mboweni for a postponement. This request was refused as the department wanted the bill debated in Parliament before June. The bill is supposed to go to Nedlac's management committee this month.

Other employer concerns relate to the imposition of fines and punitive measures; the requirement that employment equity plans should reflect the country's regional and national demographics; practicalities relating to state contracts; and whether the proposed legislation should facilitate the reduction in the apartheid wage gap.

Labour argued in its submission that the bill had failed to give legislative effect to facilitate the reduction of the apartheid wage gap.

It said the bill and the original green paper focused on the high levels of wage and income inequality and that an employment equity strategy would address these disparities.

Labour believed, however, the bill failed to give effect to this.

Labour called for the bill to be amended to ensure all employers who received state contracts, irrespective of size, be required automatically to comply with the provisions of the proposed legislation.

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ANALYSIS

# It is naive to believe the labour market can correct itself

## Debate on the Employment Equity Bill rages on but is the public well informed? Labour reporter Renée Grawitzky takes a look at the legislation

176 BD 20/3/98

IN THE old days the Institute for Race Relations was hammered for daring to challenge apartheid. It seems ironic that it is now seen to be taking a very conservative stand on the Employment Equity Bill and is being harried for its harsh criticism of the proposed legislation.

Labour, government and business representatives involved in negotiations on the bill have acknowledged and accepted the need to implement, for a limited period, measures such as affirmative action.

The Institute achieved its objective of raising both its own profile and that of the bill. However, in presenting a worst-case scenario — in line with the US experience — it has misinterpreted certain sections.

Its actions have contributed to the rising perception that "white South Africans do not want to 'deracialise' society. White business hence tried to distance itself from the institute's position and toned down its response considerably.

The manner in which the institute promoted its views, which were adopted by the Democratic Party, the Inkatha Freedom Party and others, gave government and the Black Management Forum the opening to label all critics of the bill as being "antitransformation".

All this has made impossible an open debate on the legal implications of the bill and whether it can achieve its lofty goals of equity coupled with economic growth.

Redressing the legacy of inequality "reflected in disparities in the distribution of jobs, occupations and income" and developing a culture of nondiscrimination and diversity in the workplace are the bill's main aims. This is to be done by introducing procedures to eliminate discrimination in decisions about careers, pay and benefits; restructuring work organisation to promote diversity; reducing barriers to historically disadvantaged groups; and changing workplace culture and procedures to train and promote such employees.

The bill prohibits unfair discrimination, but, in line with the constitution, says it is not unfair to introduce positive measures or "distinctions, exclude or prefer any person on the basis of the inherent requirements of a job". The definition also covers racial and sexual harassment.

Allegations of unfair discrimination must be referred to the Commission for Conciliation, Mediation and Arbitration, and if not settled would go to the Labour Court which could decide to award compensation, punitive damages or a fine.

The bill cannot be read in isolation from the Labour Relations Act, Basic Conditions of Employment Bill, the Skills Development Bill, which is still under discussion, and the constitution, which guarantees the right to both equality and fair labour practices.

There are instances where the bill goes beyond what was agreed to in the Labour Relations Act.

That act, for example, limits compensation for unfair dismissal linked to discrimination to 24 months' remuneration, but the bill merely says that such compensation must be just and equitable.

To achieve equitable representation and diversity in the workforce, the bill requires employers with 50 or more employees to draft and implement a plan in consultation with unions or employee representatives.

Employers would not, however, be required to appoint or promote "fixed numbers" of people (quotas), or appoint or promote those not suitably qualified, or create new positions.

An employer must analyse his workforce according to race, gender and disability. If this shows that there is "underrepresentation" within any job category, a plan must be drawn up incorporating numerical goals and a timetable for ensuring reasonable progress.

Plans will be assessed on whether they reflect the national and regional demographics of the country; the pool of suitably qualified people from designated groups; economic and financial factors in the sector in which the employer operates and present and anticipated financial circumstances of the employer.

A failure to consult, draft and implement a plan, submit a report yearly to the labour department director-general, publish this report in company annual reports and within the company and employ a manager to monitor the implementation of the plan could result in fines of up to R900 000.

Contrary to the institute's claims, employers will not be fined if they do not achieve the plan's goals, or if progress is insufficient because natural attrition is limited or they cannot afford to take on new staff.

The bill grants the director-general powers to assess efforts to comply with the proposed legislation. He can evaluate whether progress is reasonable.

Non-compliance with a recommendation made by the director-general after the assessment can be referred to the Labour Court. Whether an employer faces fines, damages or orders will ultimately depend on the courts' interpretation of the proposed legislation — which does take into account the company's financial and other needs.

The bill also calls for the establishment of a commission for employment equity to advise the minister on issues, and contains provisions relating to state contracts and powers of the labour court.

The bill has been criticised by business for introducing punitive as well as compensatory damages in excess of the provisions in the Labour Relations Act, and for requiring employers to ensure that their workforce mirrors national or regional demographics which could amount to quotas and force employers to hire people where jobs do not exist.

Other concerns relate to the practicalities of obtaining certificates of compliance from the labour department to be eligible for state contracts, and how this clause could be used by companies competing for contracts.

Business is also concerned about the uncertainty over the intention of some of the clauses. Will the bill view dismissals to comply with equity plans as fair? How should "suitably qualified" be interpreted — does it mean someone who has the abilities, or formal qualifications, or relevant experience, or an evaluation of all these components?

A business source says that at the heart of differences is how parties define what is equitable, and especially what is meant by "equitable representation".

Labour wants the section relating to the appointment of suitably qualified people scrapped, and criticises the failure of the bill to address the reduction in the "apartheid wage gap" sufficiently.

Durban-based consultant Pat Stone says the bill's emphasis is on consultation and participative decision making and is not prescriptive. "The only way people will buy into an equity programme is for all inter-

est groups in the workplace to come together to agree on programmes."

Industrial relations consultant Joe Campanella says that, under the circumstances, the bill is reasonable practical and allows a long period for implementation.

One concern, however, is the administrative and bureaucratic component of the bill.

"It is hoped that correct attention will be given to this so delays do not occur as well as arbitrary enforcement of legislation," he says.

The institute, Stone says, has created the impression that the labour department will monitor every move of employers. However, government has acknowledged it does not have enough inspectors, and the success or failure of the proposed legislation will depend on the employees to ensure compliance.

From a theoretical perspective the Employment Equity Bill, together with the Skills Development Bill should upgrade skills and improve access to jobs, training and promotional opportunities to remove disparities in jobs and occupation.

Practically, it remains to be seen whether legislation of this kind can remove disparities in income between racial groups without job creation.

# Changing colour With the times

*People who got themselves classified coloured in the old days are switching back — to black, writes Angella Johnson*

*MHG 20-26/3/98*

*(176)*

**O**nce upon a time in the old South Africa it was considered infinitely preferable to be coloured rather than black. At least that was what Frank Makoba's family thought when they opted to fake their racial classification.

But times have changed. Today many former "coloureds" are racing to reinvent themselves as black because they think it will make life easier.

"When I was a boy I was black. Then I became coloured, but now I'm black again," declares Makoba (48). Confused? Well, it is all about fitting in with the system of government. Different regime, but same pigmentation principle, they cry.

Makoba's Xhosa parents pretended to be coloured and changed their surname to Mocooba — thinking it was a Muslim surname — because it meant they could find jobs easier "and we could get into good schools", he says in fractured English.

He laughingly tells the story of how a white employer in Cape Town once remarked that he looked pretty black for a coloured. "He said, 'Are you sure you're not a kaffir?'" chuckles Makoba.

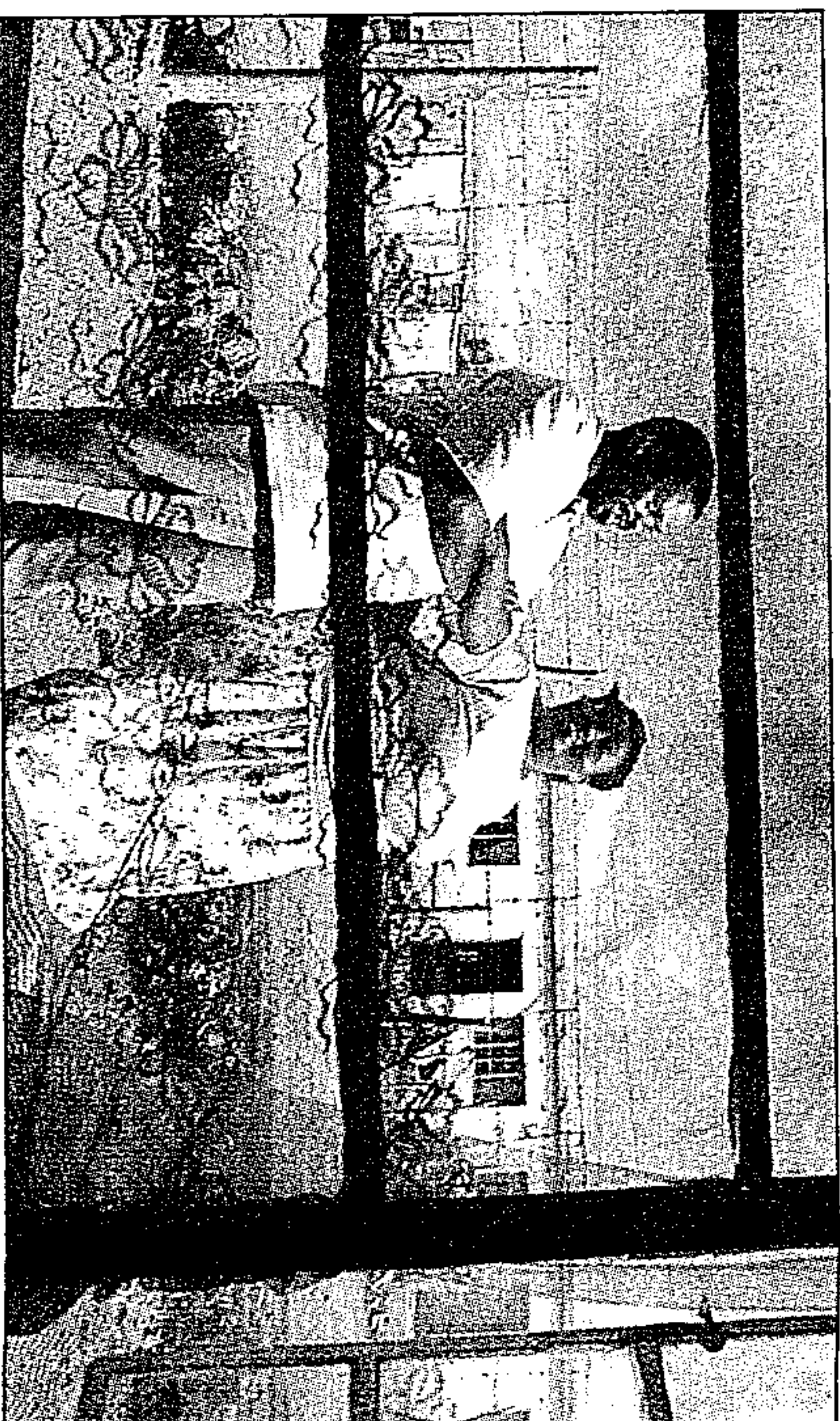
"I had to listen to them telling jokes about black people and sometimes even joined in because it was expected. I feel ashamed about this now, but I had to make a living."

He and several friends from Murraysburg in the Western Cape survived under apartheid by changing their names and forsaking isiXhosa or seSotho for Afrikaans. They denied their heritage, stopped eating miele pap and sometimes even disowned their families to masquerade as coloureds, who had more opportunities for better education and jobs — particularly in the Western Cape, which was legislated a preference labour area for coloureds.

Isaac Dokter, a Karoo community worker, started faking when he was 16. "The situation was that as a coloured you were reserved a better place in life economically and socially."

So he forsook his seSotho name, Palamang Mosotho, and used the identity number of his Xhosa mother's coloured friend to re-register.

Dokter remembers it was a painful decision. "My parents had 12 children, but I was the only one alive and it upset my father very much that I was prepared to disown them. He want-



**Shifting allegiances: Isaac and Mareld Dokter of Murraysburg became coloured.**

**PHOTOGRAPH: GUY TILLIM**

ed to know why I could not take the punishment of apartheid like he had." Dokter replied that he, like hundreds of other people in the Karoo, was not prepared to suffer.

His friend Willem Awkes (40) explains that after the death of his Xhosa father, his mother changed his surname to Janjies so he could get into the coloured Karoo High School.

Local pastors helped families like his by signing false baptism certificates. "At first the authorities refused [to accept] my ID, saying I was black. So I went to court and the magistrate asked me questions in Afrikaans."

In the spirit of racial madness that existed at the time, Awkes was also told to write a paragraph in Afrikaans. "After I did this the white magistrate said, 'No way are you a Xhosa. You're coloured,' and I got my ID."

Now he wishes he could speak isiXhosa because it would serve him better in the present political climate of affirmative action. "Being black is better now."

The men have started a campaign to reclaim their identities, motivated, says Dokter, by emotion. "Personally I always knew who I was, but I want my children to be proud of where they come from."

He also cites a strong desire to appease his ancestors for any slight they may have felt because of his betrayal.

It's not just coloureds who want to be black. Dokter claims he walked into his office recently to find a woman he knew applying for a job. "She was calling herself Thandi, but I've always known her as Lorna. And she's white."

## Gradual progress on affirmative action in civil service

(176)  
CLIVE SAWYER

POLITICAL CORRESPONDENT

ARG 23/3/98

There is gradual progress in making top levels of the public service more representative, says Minister for Public Service and Administration Zola Skweyiya.

His ministry will soon release a white paper on affirmative action in the public service which will set mandatory targets and guidelines.

Replying to questions by Heera Singh of the Inkatha Freedom Party, Dr Skweyiya said a previous white paper on transforming the public service set targets for 1999 for the public service to be 50% black at management level, 30% new women recruits to management level by 1999, and 2% of people with disabilities by 2005.

Figures for June last year showed representativeness was "gradually" being achieved.

By that stage senior management was 47% African, 43% white, 5% coloured and 5% Indian.

Figures for the gender profile also showed some improvement, although senior management by June was 88% men and 12% women.

Middle management was still white-dominated, but there were more black people at senior management level than before 1994.

There were now six women directors-general, of whom five were black.

Progress with the recruitment of people with disabilities had been slow because "the definition of disability remained a challenge".

# Employment equity deal 'within reach'

BD 24/3/98

(~~176~~) (176)

Reneé Grawitzky

AGREEMENT on major issues in the Employment Equity Bill had been reached, sources said yesterday.

Government, labour and business are close to striking a deal on the controversial bill being negotiated in the National Economic, Development and Labour Council (Nedlac).

Parties were expected to meet late into the night last night to try to resolve outstanding issues, which included some of the bill's punitive measures and a demand by the Congress of SA Trade Unions (Cosatu) to include a clause to close the apartheid wage gap.

Union and business sources were optimistic that a deal would be struck ahead of the bill going to Parliament, as consensus was reached on some of the controversial clauses which could have derailed the process late last week. They remained cautious, however, in case consensus on the outstanding issues could not be reached.

In terms of an agreement, a designated employer could either be defined as a company employing 50 employees or more, or one which had annual turnover of between R4m and R25m. This was in line with the definition of a small business in terms of the National Small Business Act.

It was estimated that 10 000 companies employed more than 50 people. The amendment adding the turnover clause will increase the number of companies covered by the legislation.

In an attempt to balance this change, the parties agreed to ease some of the administrative burdens imposed by the bill on small and medium-sized businesses. Companies employing less than 150 people would now be required to submit a report to the

director-general of labour on progress made in implementing employment equity plans every two years instead of annually.

It was also agreed that the director-general would publish special regulations and the format of a plan to assist small businesses in implementing and maintaining employment equity.

Business managed to facilitate a deal on the rewording and repositioning of a critical clause which stated that employers would not have to appoint or promote the "designated group" — blacks, women and disabled — who were not suitably qualified for the position. The clause also stated that employers did not have to implement a quota system, create new jobs or be forced not to employ those outside the designated group.

The Black Management Forum, supported by labour and the community component in Nedlac, wanted this clause scrapped.

Employers argued strongly against a requirement in the bill that employment equity efforts be assessed on whether they reflected the national and regional demographics of the country. They argued that this could amount to quotas.

It is understood that the parties agreed to change this to refer to the national and regionally economically active population.

Sources said it was unlikely that any changes would be made to fines which could be imposed on employers for failing to comply with the administrative aspects of the bill.

They said the debate over the wage gap was likely to be a sticking point. Cosatu argued that the bill failed to give legislative effect to facilitate the reduction of the wage gap.



# Tito Mboweni slams the privileged few

JOVIAL RANTAO

THE National Party and the Freedom Front have strongly objected to affirmative action legislation piloted by the ANC and have asked Labour Minister Tito Mboweni to withdraw it.

However, Mboweni rejected their pleas and emphasised that the legislation would be tabled in Parliament soon.

In an interpellation marked by emotional exchanges, the NP and the FF accused the ANC of introducing racist legislation in Parliament. They were referring to the Employment Equity Bill, which is being negotiated at the National Economic Development and Labour Council.

"The ANC is becoming a racist party," charged Pieter Groenewald of the FF, after presenting statistics which he said showed that the salaries of white people had not gone up at the same rates as those of blacks. (176)

Leader of the official opposition Martinus van Schalkwyk said: "The ANC is exactly the same as the NP in 1948 ... Black people don't need legislation. They need common sense. There are 40 000 institutions which have to be administered if the legislation is passed. Government must reconsider this legislation which is immoral and will destroy jobs. Racial classification under the old order and the new order is equally dangerous." CT 26/3/98

Mboweni submitted a file to Parliament containing all racist legislation promulgated by the NP and said a situation where management in South Africa was still 96% white male could not be allowed to continue.

"The people who oppose this legislation should be destined for the dustbin of history. Who is in the choir singing a song against affirmative action. Those are the people who were privileged in the past. You think you can invite black people and insult them by opposing affirmative action ... We're going to bring this legislation to Parliament and change all those wrong things done to this country by your (NP) ancestors," Mboweni said.

The Minister has insisted that South Africa, more than any other country, needed government intervention to deracialise its workforce.

Incentives offered by the legislation to companies which comply would include access to State contracts worth R65-billion per annum. On the other hand, companies which fail to eliminate discrimination in the work place and introduce equal opportunities will face heavy fines and will be denied access to the lucrative state contracts.

# Emotional debate over affirmative action bill (176)

BY JOVIAL RANTAO

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Star 26/3/98  
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Incentives offered to companies that comply will include access to state contracts worth R65-billion a year. On the other hand, companies that fail to eliminate discrimination will face heavy fines and be denied access to these lucrative contracts.

Mboweni recently said business and the trade unions back the bill and called on white South Africans to support it.

# Black agents needed, now

(176) (30)

## Affirmative action seen as golden opportunity

ARL 28/3/98

PROPERTY EDITOR

Estate agency principals who drag their heels in recruiting and training black estate agents for permanent employment "are missing out on a golden opportunity and could pay dearly for it", says one of the industry's leading figures.

Jan le Roux, CEO of the PA Group, believes it's only a matter of time, "perhaps within five years or less", before the number of black residents outnumber their white counterparts in some of the previously white suburbs.

By which time the wheel could turn full circle and black house-owners may prefer to deal with agents of a similar culture.

If this happens, white-owned agencies and agents will stand a serious risk of failure for the same reasons that black agents were

presently struggling to become established.

He was reacting to growing industry concern at the still relatively low number of black estate agents in the traditional market.

Unconfirmed industry figures suggest that only 800 of about 36 000 registered estate agents are people of colour. In view of the country's apartheid past, he said, this was understandable.

Mr Le Roux, whose group boasts a 4 400 estate agency membership, said that although the commission-only remuneration in the industry was a major barrier to the fast absorption of black people, the marked lack of black agents in traditional markets where black people in some instances made up between 30% to 50% of current sales, was not being taken nearly seriously enough.

Motivation by agencies to recruit black agents in these areas

**'Efforts by some of the larger groups are little more than lip service to affirmative action'**

had been nullified to some extent by sellers preferring to list their homes with white estate agents.

The great division of the past, created by apartheid, still made it difficult for some sellers to entrust the sale of their properties to black estate agents, but this would have to change as black agents became prominent players in these markets. Mr Le Roux said that unless white principals recruited and established black agents in these areas their business future would soon come under serious threat.

"Some have," he acknowledged, "but efforts by some of the larger groups are little more than lip service to affirmative action, and motivated with the purpose of linking up to black agencies in the old townships with the prime intention of sourcing business from these areas."

A recent indaba hosted by the PA group to evaluate affirmative action in the industry revealed growing disenchantment by black delegates at being denied full opportunity to develop greater understanding of the traditional housing market.

"Many perceived recruitment by white-owned estate agencies as window dressing, and there was a wide-spread perception among them of being employed in an arms-length role rather than in a hands-on capacity."

Mr Le Roux also insisted that red-lining by the banks has exacer-

bated the slow absorption of black estate agents into the mainstream industry.

"Because the more powerful representative real estate bodies failed to vigorously challenge the banks' joint action in refusing bonds, predominantly in the former black areas, black estate agents have had to fend for themselves and have consequently become very disillusioned."

Andrew Harrison of the Estate Agents' Board said the board would very much like to see estate agency principals help black estate agents to get on their feet because it was right that they should "do something positive".

But he doubted whether the Employment Equity Bill, expected to be passed by parliament this year, would affect real estate companies directly because most agents were employed on a contractual basis.

## Nedlac meets tomorrow about tough issues in work equity bill

Reneé Grawitzky

BD 30/3/98

(176)

GOVERNMENT, labour and business resume negotiations on the Employment Equity Bill tomorrow to resolve outstanding issues, the National Economic, Development and Labour Council (Nedlac) said after an executive council meeting on Friday.

Nedlac participants refused to divulge details of the talks, but sources said these issues included the Congress of SA Trade Unions' demand for a clause on reducing the wage gap and concerns expressed by small business. It is believed that business is concerned that the equity net is being cast too wide for small business if the turnover criteria is included. During negotiations parties have considered extending the definition of designated employer to include both the number of employees and turnover based on the definition in the Small Business Act.

Besides discussion on the bill, the executive council dealt with preparations for the presidential job summit later this year.

Nedlac executive director Jayendra Naidoo said there had not been enough political weight behind the process and there was concern that constituencies had not yet tabled their proposals. Government agreed to establish a senior-level committee to drive the process and ensure its "tighter management".

Naidoo said labour and business submissions would be tabled this week. It is unclear when government will make its submission.

## RIGHTS

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## Progress in addressing unfair discrimination

South Africa was world-renowned for discrimination and gross inequality among its citizens before its first democratic elections in 1994 and the passing into law of a new constitution.

"Unfair discrimination is an issue that the constitution specifically addresses," says Urmila Bhoola, partner at Cheadle, Thompson & Haysom.

The constitution states that a person may not be unfairly discriminated against on the grounds of race, gender, disability, marital status, pregnancy, age, religion, conscience, belief, birth, culture, or language.

Bhoola says these provisions are translated into practice in various ways. Firstly all laws passed by Parliament must be in line with the constitution's principles and may be actively designed to promote such.

She cites the Labour Relations Act as an example. "The Labour Relations Act takes the constitutional protection of equality and affirmative action and translates them into specific protection for workers against unfair discrimination in the workplace."

On the question of affirmative action, Bhoola says: "The constitution regards measures designed to advance people who have been unfairly discriminated against as not being unfair discrimination, because it guarantees equality and declares that affirmative action is a fundamental aspect of equality".

This provision is to be taken forward by the Employment Equity Bill (see story to left).

Another aspect of the implementation of the anti-discrimination provisions of the constitution is action via the country's courts.

An existing law, and actions of the State or another person can be challenged as being discriminatory.

The recent Langemaat case is an example: a lesbian police officer successfully challenged the SA Police Services benefit scheme, which did not recognise her partner as a dependent.

The court declared this aspect of the scheme to be discriminatory and, therefore, unconstitutional. The court ordered that her partner be included as a dependent.

Bhoola says although South Africa has made remarkable strides in dealing with unfair discrimination in society, the country still has a fair way to go.

# Telkom enforces affirmative action on suppliers

BD 2/4/98

176

GRAHAMSTOWN — Rennies Travel and American Express Travel, which were awarded the contracts to supply Telkom's travel needs, have been told to enter meaningful joint venture partnerships with black businesses if they are to keep the contracts.

In terms of Telkom's procurement procedures, suppliers of goods and services are selected according to strict affirmative action and black empowerment criteria.

Zeona Motshabi, Telkom's senior manager of corporate communications, said there were, however, no suitable major black players in the travel industry and therefore Rennies Travel and American Express Travel were awarded the contracts on condition they entered into meaningful joint venture partnerships with black businesses.

According to industry sources, Telkom spends about R2m a month on travel.

Motshabi said American Express had already entered into a joint venture with Phulanala Travel Services.

While the identity of Rennies' proposed partner was still confidential, Rennies CEO Lilian Boyle said her company was "extremely excited about the joint venture".

She said it was unique as it promoted black entrepreneurs from within their ranks and the move would "structurally change the industry" as it would introduce a new player. Boyle said the move had to be

seen in the context of their black advancement strategy which included "black equity, joint ventures with black entrepreneurs and black advancement within the company".

In terms of Telkom's black economic empowerment programme, potential suppliers were selected after assessing:

- The company's black shareholding;
- The nature and extent of use of black subcontractors or joint ventures;
- Work outsourced to black businesses;

- Community involvement; and
- The company's affirmative action policy.

Telkom supply management executive Bob Schlutow said his company was "transforming its interactions with suppliers over the entire spectrum of the procurement process".

He said that Telkom wanted to "advance the involvement of disadvantaged communities in the economic mainstream" as this would contribute to the establishment and support of a viable base of local suppliers. — ECONbusiness.

# More SA blacks buying cars

Mzwandile Jacks

(176) BD 2/4/98

AN INCREASE in car sales to black South Africans between 1994 and 1997 can be attributed to the acceleration of affirmative action and black economic empowerment, says McCarthy Motor Holdings CEO Brand Pretorius.

At present, the black vehicle ownership ratio is 26 for every 1 000, while for coloureds it is 92 and Indians 184. The figure for whites is 590.

Blacks enjoyed a 30% increase in vehicle ownership over the period, coloureds 21% and Indians 13%. There was no growth in the white market.

Reacting to industry authorities' predictions of "doom and gloom" in the motor industry, Pretorius said: "Considering that blacks represent more than 75% of the SA population, their positive impact on the market will be significant.

"In 1994, the black vehicle ownership ratio was 20 per 1 000. Coloureds owned 75 per 1 000 and Indians owned 162 per 1 000."

The latest analysis of the statistics contained in the UK's Lex Automotive Yearbook shows that in SA 96 people out of every 1 000 own vehicles, while in Spain the number stands at 380. A figure of 430 has been reported in the

UK and Germany has been calculated at 500. In the US, 590 out of every 1 000 people own vehicles.

Pretorius said the white SA market was virtually saturated.

If the vehicle ownership ratio per 1 000 blacks grew from 26 to 32, it would push the number of black-owned vehicles to more than 1-million. He predicted this would happen by 2002.

"The general expectation is that the economy will show meaningful economic growth over the period 1999 through to 2002, which is an added factor. This will boost black vehicle ownership figures," he said.

Meanwhile, motor vehicle prices have been reduced by up to 15% over the past three years. Experts believe this reduction can be attributed to the Motor Industries Development Programme and the competitive market environment in SA. The programme was launched in September 1995.

In addition to improving international competitiveness, the mandate of the programme was also to improve vehicle affordability and encourage growth in the market.

About four years ago, the cheapest new car available in SA cost more than R41 000, whereas the most affordable new car is now sold at R33 000.

# Sowetan staff up in arms

(176) ~~(176)~~  
SOWETAN staff staged a lunch-time picket yesterday against the company's alleged failure to comply with its affirmative action policy.

The workers - who sang, toy-toyed and carried placards denouncing management - said the company was reluctant to promote internal staff to more senior positions.

The workers declared a dispute with management through the Media Workers' Association of South Africa. They have demanded involvement in all significant appointments at the newspaper.

The workers' spokesman, Joe Mdhlela, said they would continue their lunch-time picket daily until management had responded to their demands.

If management failed to respond to their demands expeditiously, staff might resolve to embark on other forms of protest action, including a full-blown strike, he said.

Some of the placards read: "Stooges must go", "Sowetan is lying about affirmative action", "Away with racism" and "All power to Sowetan workers".

The picket followed the placement of two advertisements for a managing editor and a picture editor in the press recently. Workers said the ads implied management was not looking at people inside the company.

Sowetan deputy managing director Mr Mike Tissong said management did look at workers inside the company but could not find anyone suitable for the positions.

Tissong said about five or six weeks ago, the newspaper advertised the positions internally and received four applications - one for a pictures editor and three for a managing editor.

He said the applicants were interviewed by a panel and it was felt that they did not qualify because of the kind of responses they gave.

"It's quite a pity that this matter is now being discussed in the public domain. It is damaging to those people and their careers, if they ever thought of leaving Sowetan."

Tissong said the applicant interviewed for the post of pictures editor could not be promoted to the position because he demonstrated he could not carry out a management responsibility.

One applicant for the position of managing editor did not qualify because in the interview, he also showed that he could not manage his staff.

Tissong said the other two applicants did not qualify because they did not have enough experience to occupy such a senior post.  
- Sapa.

Sowetan 23/4/98



# Big boys cleared of racism

Ann Eveleth

**A** government probe into job reservation at a private construction giant blamed a single official for racist hiring practices, but ignored the role of three managing directors when it effectively exonerated the company.

(176) (177) M+G 24-29/4/98  
 Thuso Ramaema, the department chief director tasked by Minister of Water Affairs and Forestry Kader Asmal to probe allegations of racial and gender discrimination at construction and engineering giant Group Five, singled out a lone official for "breaking the rules", but gave a clean bill of health to the company.

The official, divisional human

resources director Johan Gouws, resigned last month before Ramaema's probe found him guilty of "violating the policies of Group Five by practicing job reservation against blacks and women".

Asmal launched the probe in February after the *Mall & Guardian* published claims by executive recruiter Dick Muller that qualified black and

female candidates were rejected by the firm which hired him to fill three senior vacancies last year. Group Five holds millions of rands in contracts with the departments of water affairs and public works, as well as other public entities.

But Ramaema effectively cleared the company's record, finding that it "had a non-discriminatory employ-

ment and black empowerment policy".

This was despite a subsequent admission by Group Five chief executive officer Mike Lomas that he had personally reprimanded three managing directors "in respect of administrative inefficiency during the recruitment process as well as their passive attitude towards the group's employment equity policy during the assignment". He did not name the three managing directors.

Lomas' admission lends credence to Muller's claim that Gouws had twice suggested to him that he was merely following higher orders.

"The only person who ever told me anything was Gouws, but it was my impression he was acting on other people's instructions. I don't think Gouws is the only bad guy. I think he knows the guys he is hiring for and what will and won't go down with them," said Muller.

Gouws had told Muller during a heated conversation that, "It's my fucking prerogative [to exclude black and female candidates]," but he had also said, "the whole question of whether we have blacks or women is quite sensitive, in the sense that we will probably be forced to employ, uh, black people, which I think personally is the right thing to do. Obviously the profit centres are more difficult to convince."

In response to the probe findings, Gouws denied he had violated company policy and pointed to an "independent internal" probe conducted by Group Five director George Thomas and his colleague Gibson Thula, the only black director out of 50 at the company. That probe, said Gouws, had found "no firm evidence" that a discriminatory instruction had been given.

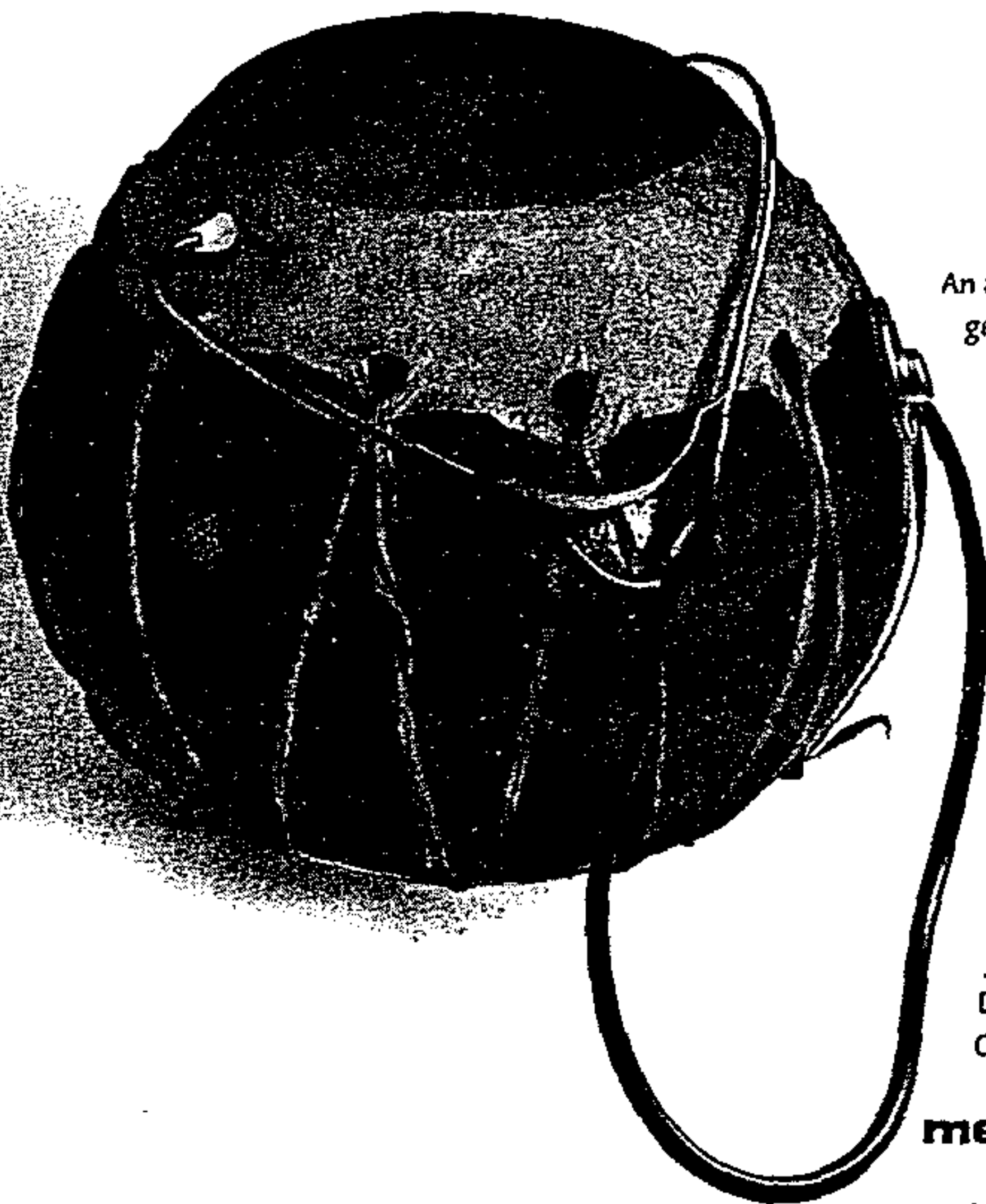
"I resigned from Group Five to spare the organisation I love embarrassment and commercial harm. Most importantly because the Department of Water Affairs and Forestry had threatened to deny Group Five any contracts even before the investigation had been finalised," he added.

To support his defence, Gouws sent the *M&G* a curious reference letter drafted for him by Lomas. Lomas says in a letter that he was sorry to see Gouws go, and adds: "All I can say is that what [Gouws] is accused of is in complete contradiction of everything I know of the man. It is likely that he was severely provoked and, whatever words were said are in conflict with his commitment over many years to employment equity."

Lomas had assured Department of Public Works Director General Siphoshezi that Gouws had left owing to "steps" the company had taken after realising "something had gone wrong".

Shezi said: "I am happy they have taken some steps to remedy the situation, but I will be keeping an eye on them."

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AFFIRMATIVE ACTION

**Historical legacies  
live on**

FM 24/4/98  
(196)

More than two-thirds of the major IT multinationals in SA are experiencing difficulties in recruiting black staff.

This is according to the first Hi-Tech International Remuneration Survey on SA. It was commissioned by leading IT multinationals to evaluate remuneration and employment practice trends. The local survey was conducted by Johannesburg-based FSA-Contact and Watson Wyatt Data Services of Belgium.

Almost 80% of the major US and European IT multinationals operating in SA participated in the survey.

It found that of the companies that have implemented affirmative action programmes, almost 79% attempt to employ a greater number of employees from "disadvantaged" groups. A similar number target training, development and promotion practices and 40% also incorporate bursary students in their affirmative action policy.

Only 14% attempt to fill a quota from previously disadvantaged groups, possibly because nearly 68% report difficulties in recruiting black staff — particularly in the applications, consulting,

customer liaison, managerial, sales and marketing, and technical categories.

Just over 12% confirm that they pay premium salaries to previously disadvantaged employees of superior quality and ability. Survey participants also pay their employees higher bonuses than the national average.

This is a way of retaining skilled IT staff, who are highly mobile and able to find lucrative jobs overseas.

Performance bonuses paid to all IT staff are higher than average 13th cheques and in some cases between two and four times higher, says FSA-Contact's manager for data service division Melanie Trollip.

Marina Bidoli

# Govt presents its affirmative action policy

(176)

David Greybe

CAPE TOWN — Government will unveil a new affirmative action policy today to accelerate the creation of a racially representative public service.

A white paper, published in the latest Government Gazette, sets out the steps national departments and provinces must take. Public Service Minister Zola Skweyiya will formally launch the new policy in Pretoria today.

The new requirements depart from existing policy, which does not require an "integrated and well-managed programme".

The white paper says "responsibility for affirmative action (will no longer be) the preserve of the affirmative action specialist but of every manager, supervisor and human resource practitioner, who will be required to implement affirmative action plans and be held responsible for these".

The implementation of affirmative action policies will be incorporated into managers' performance objectives and into the performance contracts of directors-general.

Previously announced affirmative action targets are declared "minimum national targets", to be reviewed and

BD 28/4/98

reset by government by the end of 2000 and every three years thereafter.

The current targets say 50% of the public service must comprise black people and 30% women at management level, plus 2% people with disabilities by next year. However, the

white paper stresses that these figures "do not represent the ultimate goal, which is that all groups and levels within the public service should be representative of society as a whole".

The white paper spells out the accountability, monitoring, co-ordinating and reporting responsibilities of the various players within affirmative action programmes.

In future, it says, affirmative action programmes "must contain, as a mini-

imum", numerical targets, performance management, an affirmative action plan, an employee profile, an affirmative action survey, a management practices review and a policy statement.

The white paper also aims to "close gaps and remove ambiguities" in policies introduced since 1994 to remove discriminatory employment practices.

The paper defines affirmative ac-



SKWEYIYA

Continued on Page 2

## Affirmative action

(176)

Continued from Page 1

BD 28/4/98  
tion "as the additional corrective steps which must be taken in order that those who have been historically disadvantaged by unfair discrimination are able to derive full benefit from an equitable employment environment."

Government hopes the new policy will be viewed as "equally relevant" to the wider public sector and, therefore, of assistance to local government and state enterprises.

"Affirmative action is not seen as an activity undertaken in addition to other administrative tasks, but ... as an

essential tool for achieving the organisation's strategic and operational goals," the paper says.

The public service department, to play a "facilitative role", will evaluate and report to the parliamentary public service committee on the policy's effectiveness, and propose refinements.

The department will review national departments' and provincial administrations' progress in achieving numerical targets.

It will "propose improved and refined targets with the aim of reaching the ultimate goal of full demographic representation". Given the need to contain public expenditure, affirmative action programmes must be budgeted within normal line-item expenditure.

ANALYSIS

# SA's unemployed face far too many obstacles

The Democratic Party, in a document drawn up for the presidential job summit to be held later this year, has proposed a voucher-based scheme as one way of providing jobs and training. Party leader Tony Leon gives an overview



LEON

MD 28/4/98

POLITICAL freedom is an increasingly empty concept in SA. Millions of poor and destitute South Africans have seen no material change to their lives; inequality between the employed and unemployed is now greater than that between whites and blacks.

However, the Democratic Party (DP) believes that there is hope for those mired in poverty — provided we make the right policy choices. The single most significant difference between poverty and the beginnings of a decent standard of living is a job. Yet since 1994, the unemployment rate has increased to anything between 25% and 33% and it is still growing.

There are 2.3 million South Africans under the age of 30 who are unemployed, 65% of whom have never had a job. To this troubled generation is added half a million school leavers every year, most of whom cannot find jobs either.

The state cannot provide either employment or training opportunities effectively. The labour department reported in 1995 that it had spent R32m on training 48 000 people, but that only a fifth of them had found jobs. Other such failures are easy to find.

Government-set regulations are outdated, expensive, and restrict industry's ability to train prospective employees in the skills they actually require. Restrictive labour laws produce a vast number of disincentives to employment.

Our message is simple: We need to remove the obstacles which prevent the unemployed from gaining skills and getting jobs, and give practical help in developing skills and employment opportunities with a minimum of red tape.

We propose that, for the next five years, each matriculant should receive an "opportunity voucher" with his or her matric certificate.

The voucher will consist of 12 monthly mini-vouchers, each worth R250. Nongovernmental organisations, education institutions and private businesses will bid for the right to distribute another 200 000 vouchers a year to unemployed people under the age of 30 who are not matriculants.

The most important thing about those vouchers is that the recipients will be able to decide for themselves how to use them, thus maximising the effectiveness of the system and simplifying its administration.

Recipients will be able to use the vouchers in several ways: they can use them to pay all or part of the costs of education or training at any accredited institution, as well as apprenticeship training at an accredited company, or if they prefer to, they can use their vouchers to subsidise employment at any accredited employer for one year, subject to controls to avoid abuse. During this time they will be able to develop work skills and prove the value of their continued employment. A voucher beneficiary will hand a R250 mini-voucher to his or her employer at the end of each month worked, in return for a wage of at least R250.

Finally, in recognition of the fact that a third of all new employment opportunities are in the informal sector, vouchers can be used to buy self-employment kits, supplied by nongovernmental organisations, businesses and self-help groups.

The kits will include the basic equipment, seed capital, materials and training needed to set up a micro enterprise in one of a wide range of fields such as sewing, food processing, appliances and motor repair and child care.

Voucher holders will approach the suppliers of the kits with simple business proposals, which the suppliers will evaluate for their likelihood of success. The quality of the kits and the seriousness of the evaluations will be assured by the competition between suppliers.

The voucher will not be an entitlement: recipients will have to prove that they are prepared to work. School leavers will have to pass their matric exams; other unemployed youth will have to pass a simple test.

Organisations and employers wishing to participate in the voucher programme would be required to have a simple form of accreditation to avoid abuse of the system.

Accreditation will be awarded by chambers of commerce, employers' bodies, private examination boards, the Committee of University Principals, and representative bodies of nongovernmental bodies.

The opportunity vouchers will cost R1.5bn a year for five years, plus an additional R50m for administration, distribution and publicity. This represents considerably less than 1% of the budget. If tackling unemployment really is a priority — and we are convinced that it is — then the money can be found.

We have suggestions for a few sources. Money could be raised by abolishing the failed job creation programme of the public works department (R50m). The labour department's equally unsuccessful training programmes for the unemployed (R300m) could be scrapped.

The opportunity voucher scheme will give 2.5 million young people skills, confidence and a real chance of lasting employment.

SA's parliament is not a pretty sight. On its one flank, a sea of black faces, on the other, a handful of whites. The issue dividing them is the Employment Equity Bill, a piece of legislation designed to open white-collar ranks to the black majority.

Parliament has become the arena in which a national middle class has turned against itself on racial lines, fighting over the spoils of privilege.

For their part, the National Party (NP) and the Democratic Party (DP) point back wryly to the Nationalists in the late 1940s and argue that with the African National Congress (ANC) in power we are seeing more of the same: a nationalist movement using its parliamentary majority to fill the ranks of commercial and public institutions with "its own".

Politics at the moment, leading white politicians complain, is shaped by a monolithic African nationalism abusing its vast electoral strength to pursue narrow and greedy ends.

The irony is that this complaint could turn into a self-fulfilling prophecy. If the DP and the NP really want to crack the nationalist monolith they need to go beyond the flexible and negotiable measures spooled out in the bill, and to lead the white business classes into a robust and creative programme of affirmative action.

If they fail in this task, national politics will remain the battleground of a racial middle class war for a while to come. How might affirmative action fail and what will SA look like if it does? In their efforts to avoid falling foul of legislation, white companies will twin certain middle- to senior-management positions. They will also invent a range of new portfolios which place black faces in the shop window but remove them from line functions. All but a handful of blacks in the corporate world will thus remain cultural oxles, spectators to a world whose inner sanctum they will never penetrate.

One or two large black consortiums will thrive. They will fill their white-collar ranks with black faces, and will provide business for the handful of black legal and auditing practices, employment agencies and management consultancies. Government too will be a key market for emerging black enterprises. Tender procedures will be followed to the letter, but business relationships are built on familiarity and trust, on the security of dealing with people with whom one can bond, and so much of black business will cluster around government.

# DP, NP must help black professionals gain full access to the old boys' clubs

The Employment Equity Bill is to enter the parliamentary process later this year. Jonny Steinberg looks at party and race divisions on the legislation

MD 28/4/98

Government too will be a key market for emerging black professionals and commercial enterprises. Tender procedures will be followed to the letter, but business relationships are built on familiarity and trust, on the security of dealing with people with whom one can bond, and so much of black business will cluster around government.

In short, the bulk of the corporate and professional world will remain the preserve of a white business culture. Those with managerial aspirations who are not white will have to turn their blackness into a source of leverage. From small-time lawyers to CEOs, they will require an African nationalist party in power, and that is precisely what the ANC will remain: a guarantor of black middle class interests.

This scenario will only begin to change if and when black people begin to make successful careers, and wield significant power, independent of the network of African nationalism. When blacks access places of power and of voice a common political vehicle will become less important. People will gain the confidence to speak with different voices and to rally behind different causes.

However, this will only happen when white firms and corporations effect a sea-change in the culture of their own organisations. For a cultural sea-change is what is required before institutions of power really open their ranks.

The challenge is an extremely difficult one, partly because its ingredients are so hard to define. Recruiting and training skilled people in a country where education remains racially skewed, is a difficult task, but it is not the real tester. More difficult is the job of tamping with that fine, almost invisible connection between cultural familiarity and organisational functioning.

White professionals need to tear down their old boys' clubs and build bonds of an entirely different sort. They need to create a million, one which does not yet exist in any significant form, in which communication and trust cross racial boundaries.

Anyone who has visited the offices of a gold mine, or who has walked through the corridors of a large legal practice, will know the task is a formidable one. It will require powerful and creative moral leadership on the part of senior managers. Such leadership will not materialise unless success in this matter is considered urgent and crucial.

Who then is to inspire this project? It cannot be business and professional leaders alone. The bulk of their daily tasks is more or less narrow: this or that market, this or that sector. The only people whose vocational responsibility is to provide vision are political leaders.

We are talking of the NP and the DP. Jointly, they represent the white business class. Either they can think short-term and ingratiate themselves to their constituency by giving voice to their most comfortable and least reflective instincts, or they can do what they are paid to do: inspire their constituency by lifting them out of themselves to see a bigger picture. It is easy to hide behind one's support base, and difficult to lead it. The NP and the DP can keep hiding, but then they should not complain of a men-acting nationalist monolith, for they will have done more to nourish it than anyone else.

Steinberg is doing his doctorate thesis on politics at Oxford University in England.

## Affirmation action opponents to quit SA, Mbeki urges

Reneé Grawitzky

DURBAN — Public servants who opposed affirmative action and threatened to leave SA should go, Deputy President Thabo Mbeki said at a trade union congress yesterday.

Mbeki told delegates at the fifth National Education Health and Allied Workers Union (Nehawu) national congress in Durban that certain public servants had responded to the building of a nonracial and nonsexist public service by threatening to leave the country.

Such people should probably leave, he said. The public service needed a change of personnel, as old structures which served the interests of the past were still in place.

"We cannot keep a system in government which is focused on past agendas," he said.

Turning to the role of the trade union movement, Mbeki said the task of defending and advancing the revolution rested "on your shoulders". The African National Congress believed the unions and Nehawu had a common responsibility to address the problems in the public service.

Some delegates expressed concern that Mbeki had failed to explain how the problems in the public service would be addressed and had not referred to government's plans to retrench thousands of public servants.

However, Nehawu president Vusi Nhlapo, in his opening address to the congress, raised the spectre of restructuring and "rightsizing".

He warned that if government persisted with its retrenchment plans, job losses would equal those in the depression of the early 1980s.

Nhlapo questioned how government had arrived at the proposed retrenchment figures. A union declaration to be discussed at the congress today emphasised that government had yet to complete an audit of public service staff numbers.

Nhlapo said no union movement worth its salt, least of all Nehawu, could agree to the retrenchment of its members.

Nehawu would, therefore, reject any plan for retrenchments that was not informed by a broad strategy to transform the public service.

Such a strategy would have to include a social plan that created alternative jobs for those retrenched.

Mbeki said that the transformation of the public service could not be achieved without Nehawu.

Receiving a gift from the union after his address, he donned a Nehawu cap and told delegates: "When I take this cap off, you are looking at your employer."

He then removed the cap.

## ANC team to give advice

Tim Cohen

LONDON — The northern Ireland peace process is set to become cloaked in rainbow nation colours, with a call yesterday by Sinn Fein President Gerry Adams for leading ANC negotiators to take a high profile and for the establishment of an SA-styled truth commission.

While attending SA freedom day celebrations at the SA High Commission yes-

terday, Adams spoke of the "natural affinity" between Sinn Fein and the ANC, expressing the hope that the visiting ANC's constitutional negotiators would meet privately and exchange views.

Adams said even though former ANC secretary general Cyril Ramaphosa and the other South Africans were invitees of Sinn Fein and the British Labour Party, he hoped that all the parties would have access to the group in the run-up to the May 22

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## Mandela warns political parties

CAPE TOWN — Political parties should take care during next year's election campaign not to whip up emotions created by SA's divisive past and which were yet to fully disappear, President Nelson Mandela said yesterday.

Delivering his Freedom Day address at Cape Town's Grand Parade, Mandela told thousands that they were meeting to reaffirm that South Africans were a people with one destiny, "and to recommit ourselves to the achievement of the goals that define us as a people".

He was speaking from the balcony of Cape Town's historic city hall, from which he made his first public speech after his release from prison in 1990.

"When we gathered at the Grand Parade in February 1990, we knew our march to

freedom was irreversible, that nothing could stop our dream of a free SA coming true."

On that day, South Africans founded their nation on the pledge that they would undo the legacy of their divided past in order to build a better life for all their people.

Mandela, who spoke in English, Xhosa and Afrikaans, said the history of what was now the Western Cape — like that of the whole country — taught South Africans that freedom was indivisible. "The freedom of one is the freedom of the other, and where one is unfree, no one is free."

On this Freedom Day, the parade and the streets of Cape Town were alive with the unity in diversity of a society at peace with itself because the rights of all were respected, he said.

South Africans cherished their constitution and wanted to ensure that its rights became a living reality for all the country's people. That was why the government had declared this week Constitution Week.

Mandela said South Africans' freedom and rights would gain their full meaning only if they succeeded together in overcoming the divisions and inequalities of the past and in improving the lives of people, especially the poor.

Freedom was incomplete as long as South Africans were denied their security by criminals. "Even though government's strategy is beginning to take effect and, with your support, has begun to turn the tide, crime is at an unacceptable level and we must do more," Mandela said. — Sapa.

## Govt to meet unions over job cuts

Reneé Grawitzky

DURBAN — Talks would be held with unions on public service retrenchments in keeping with SA labour law, Public Service Minister Zola Skweyiya told delegates at the National Education, Health and Allied Workers' Union (Nehawu) congress yesterday.

The need to cut personnel spending and negotiate retrenchment packages arose from redundancy problems in the public service. Government would find ways to protect staff interests while reducing the obstacles to the development of

a public service that "effectively and efficiently meets the needs of reconstruction and development". Skweyiya said that government was preparing itself for negotiations on a social plan to cushion the effects of retrenchments.

Meanwhile, Nehawu is to debate a strategy to recruit public service managers who could play a potentially vital role in transforming the sector.

A policy document on transforming public service management tabled at the congress argued that such transformation had been hampered by "reactionary" unions such as the

Public Servants Association which controlled management in the public service.

The union emphasised the need to transform management culture.

Some of "our comrades who are managers do not manage any differently from the old bureaucrats".

Recruiting managers and seeking to change management styles became far more crucial in the light of the white paper on the transformation of the public service, which had proposed the devolution of managerial functions to the lowest possible level.

# New urgency on public service affirmative action

AR 28/4/98

(176)

CLIVE SAWYER  
POLITICAL CORRESPONDENT

The government today launched a revised affirmative action programme to speed up representative staffing in the public service and parastatals.

The white paper on affirmative action widens responsibility for ensuring the policy is carried out by making it the responsibility of every manager, supervisor and human

resource manager.

A statement by the Department of Public Service and Administration said that, in spite of unwarranted fears, affirmative action would improve service delivery and positively affect the lives of all people.

"The white paper sees affirmative action not only as a way of bringing about employment justice for historically disadvantaged groups but also as a critical vehicle for responsive service delivery," its said.

Although drafted initially only for the public service, a recent Cabinet decision also makes the white paper applicable to parastatals.

Current affirmative action targets for the public service require that it be staffed by 50% black people and 30% women at management level by next year. The targets are due for revision in 2000.

In recent statements to Parliament, Public Service Minister Zola Skweyiya said slow but steady

progress was being made with the implementation of the targets.

The white paper emphasises that the current targets are not the ultimate goal, which was fully representivity.

It says affirmative action programmes must contain numerical targets, performance management, an employee profile, affirmative action survey, management practices review and a policy statement.

The white paper proposes a moni-

toring mechanism of progress by national departments and provincial governments in meeting targets.

In recent days the government has sent clear signals about renewed urgency on more representative public and private sectors.

Labour Minister Tito Mboweni, introducing his budget in Parliament, said employment equity legislation to be introduced later this year would make the workplace begin to reflect South African society.

# HRC takes a stand on affirmative action

(176) CT 28/4/98  
OWN CORRESPONDENT

JOHANNESBURG: The Human Rights Commission (HRC) has adopted an affirmative action policy which will allow it to intervene and mediate in labour disputes.

HRC spokesperson Mr John Mojapelo said the policy was adopted last week and would allow the organisation to monitor the implementation of affirmative action. He said the organisation would be able to adopt an "array of remedies" when investigating an affirmative action violation, including mediation and recommending legal action.

In terms of the policy, the HRC will:

- Monitor the promotion, protection and fulfilment of all rights to equality in accordance with the Constitution.

- Assist in the development of

a national plan to promote affirmative action.

- Encourage the development of appropriate guidelines to assist in the implementation of affirmative action.

- Advocate for the adoption of effective affirmative action measures by the state.

- Monitor the development and implementation of national legislation on affirmative action.

- Assist and support initiatives by government, non-governmental organisations (NGOs), labour, and business committed to promote affirmative action.

- Recommend necessary reforms to ensure an effective adoption and implementation of affirmative action measures.

- Liaise with government, NGOs and communities to assist and participate in the process of creating an equal SA society.

# Warning on affirmative action goals

(176)

Mission is to provide higher-level jobs for women and people of colour

SAW 29/4/98

By SIMON ZWANE

Managers in the public service, from director-generals down, have been warned to implement the government's affirmative action goals or face dismissal.

"There will no longer be artificial protection. No white male will be artificially protected in a job environment," the department's director-general Dr Paseka Ncholo said in Pretoria yesterday, at the launch of a white paper on affirmative action.

This follows statements by Deputy President Thabo Mbeki who told a National Education Health and Allied Workers Union congress in Durban on Monday that it was probably better for people opposed to affirmative action to leave the country as they always threaten to do.

Ncholo cautioned that charges of misconduct would be brought against those who failed to adhere to the provisions of the policy.

"Government has now got to the point where it says: If you can't deliver on government policy, then you don't deserve to be in government. You have to quit or be dismissed," he said.

The policy document laid out targets which must be achieved by each department by the year 2000. Black representation at management level has to move from the current 33% to 50%, women have to form 30% and the disabled 2% by 2005.

Currently women constitute only 13% at management level and the disabled a petty 0,02%.

Ncholo said if a manager implemented the programme successfully, "it will indicate in the way in which the budget is allocated in that department, the way promotions are handled, and many other forms of compensation".

Ncholo said implementation of the policy would not lead to massive retrenchment as it emphasised staff training as opposed to outside recruitment, in line with President Nelson Mandela's statement that the Government "is not an employment agency".

"The Government introduced ad hoc measures between 1994 and 1997 which mainly addressed the question of representativeness by bringing people who were already qualified from outside the system into the public service," Ncholo said.

"We are now embarking on deliberate programmes to train people with potential."

He said the public service was currently shedding employees at a rate of 8% through natural attrition, and combining this with proper human-resource planning should assist the Government to achieve its goal.

Public Service and Administration Minister Dr Zola Skweyiya said the White Paper should be a relief to some white public servants who were uncertain about their future.

"Now that a policy is in place, they can be assured that they will not be thrown out simply because they are white. White people in the public service are just as South African as any of the others," he said.



# HRC to take up affirmative-action cudgels

Star 28/4/98

(176)

## STAFF REPORTER

The Human Rights Commission has adopted an affirmative-action policy that will allow it to intervene and mediate in labour disputes.

HRC spokesman John Mojapelo said the policy would allow the organisation to monitor the implementation of affirmative action. An "array of remedies" would be available in the case of an affirmative-action violation, including mediation and recommending legal action.

The HRC will:

■ Monitor the promotion, pro-

tection and fulfilment of all rights to equality in accordance with the constitution.

■ Help to develop a national plan to promote affirmative action.

■ Encourage research on affirmative action and on its effectiveness.

■ Encourage the development of appropriate guidelines to help implement affirmative action.

■ Inform and educate the public on the need for effective affirmative action and conduct information programmes to foster public understanding of it.

■ Advocate the adoption of effective affirmative-action measures by the state.

■ Monitor the development and implementation of national legislation on affirmative action.

■ Help and support initiatives by the Government, non-governmental organisations, labour and business committed to promote affirmative action.

■ Recommend necessary reforms to ensure an effective adoption and implementation of affirmative-action measures.

■ Liaise with the Government, NGOs and communities to help to create an equal society.

# 'Heads will roll if policy is ignored'

Pearl Sebalo *PH* 29/4/98

PRETORIA — Heads of government departments were responsible for implementing affirmative action policy and failure to do so could result in "heavy penalties" or dismissal, public service department director-general Paseka Ncholo said yesterday.

At the launch of the white paper on affirmative action in the public service in Pretoria, Ncholo said the Employment Equity Bill, due to become law this year, would be invoked when national departments and provinces failed to deliver satisfactorily.

The white paper recommended that officials pay their own fines. "All state monies used to pay for these need to be recouped from those identified as having been responsible for failing to implement affirmative action."

Ncholo said that no excuses would be tolerated. The white paper eliminated any ambiguities and provided a step-by-step guide to developing the programmes.

"If you can't deliver on government policy, then you don't deserve to be in government. You have to quit or be dismissed," he said.

There were incentives for departments which implemented the policy. Successful implementation would "indicate the way in which the budget is allocated in that department, the way promotions are handled and other forms of compensation". Ncholo said that affirmative action

should not be seen as a threat to white men but a means to ensure representativeness of black people, women and people with disabilities.

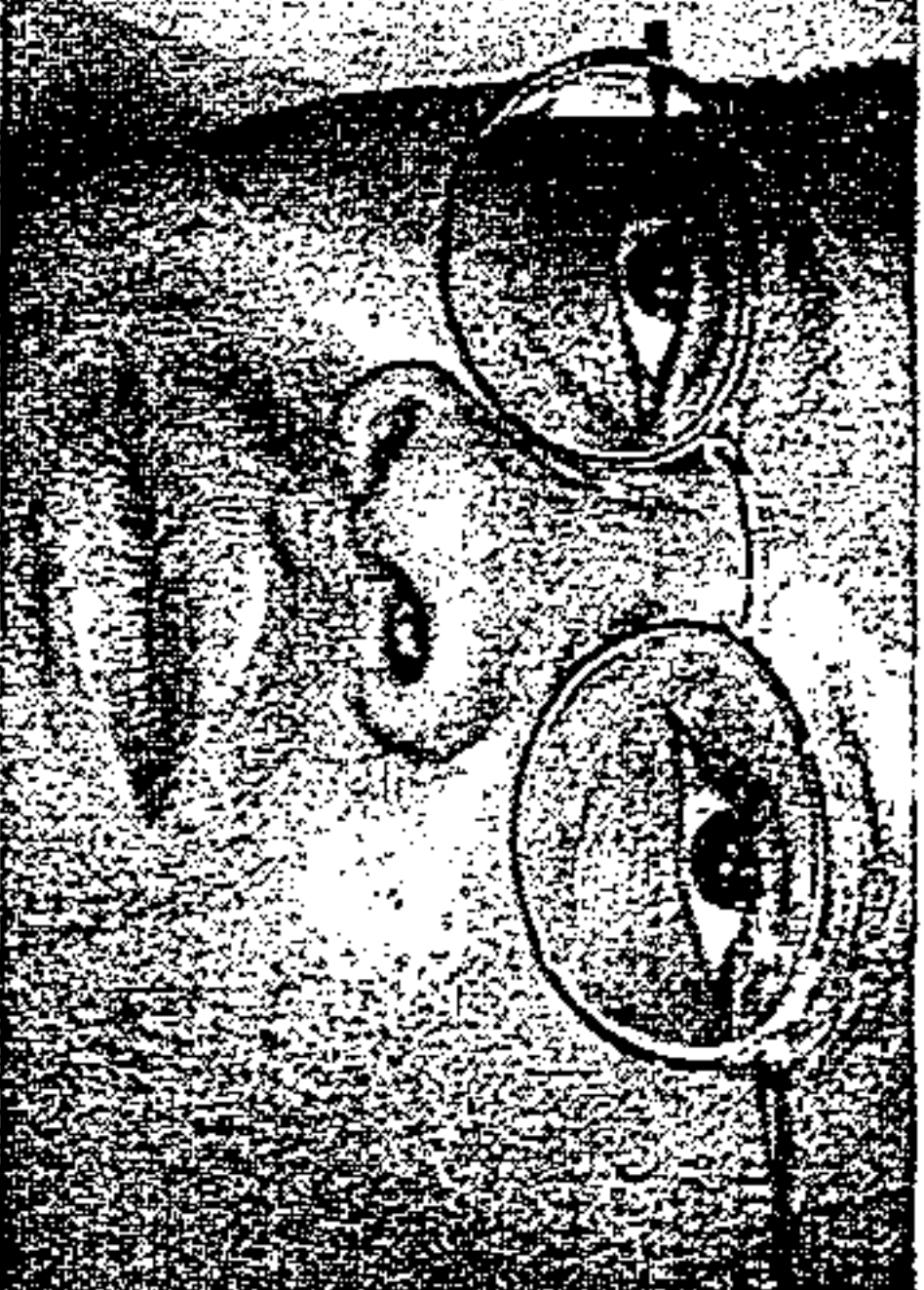
Public Service Minister Zola Skweyiya said the white paper highlighted government's commitment to address imbalances of the past.

"The public service has always suffered from a lack of legitimacy and it is hoped that having a public service with which the majority of citizens can identify will overcome this," Skweyiya said.

In terms of the new policy, public service entities, including municipalities, parastatals and the public sector, have to set up affirmative action policies with numeric targets and timeframes. It also spells out the accountability, monitoring and co-ordinating responsibilities of all roleplayers.

Responding to the white paper, the National Party (NP) said that while it supported balanced affirmative action it could not associate itself with blatant disregard for merit and experience in favour of race and colour.

The NP said the white paper, coupled with Deputy President Thabo Mbeki's veiled threats (that public servants who opposed affirmative action and threatened to leave SA should go) spelled danger for effective and efficient public services in SA. These "scandalous, racist and threatening statements" proved the African National Congress had no respect for constitutional principles that entitled everyone to fair labour practices.



Public Service Minister Zola Skweyiya, top left, and Public Enterprises Minister Stella Sigcau, top right, were among the ministers and government officials at the launch of the white paper on affirmative action in the public service in Pretoria yesterday. Also there were Public Service affirmative action policy director Ursula Evans, bottom left, and director-general Paseka Ncholo.

Pictures: ROBERT GUYRA

# Govt gets tough on affirmative action

SIMON ZWANE

JOHANNESBURG: Managers in the public service, from directors-general down, have been warned to apply the government's affirmative action goals or face dismissal.

"There will no longer be artificial protection. No white male will be artificially protected in a job environment," the Department of Public Service and Administration director-general, Dr Paseka Ncholo, said at the launch in Pretoria yesterday of the White Paper on affirmative action in the public service.

This follows statements by Deputy President Thabo Mbeki who told a National Education Health and Allied Workers' Union (Nehawu) congress in Durban this week "it is probably better" for people opposed to affirmative action to leave the country as they always threaten to do.

Ncholo cautioned that charges of misconduct would be brought against those who failed to adhere to the provisions of the policy.

The document laid out targets which must be achieved by each department by the year 2005. Black representation at management level has to move from the current 33% to 50%, women have to form 30% and the disabled two percent of the staff complement.

At present, women constitute

only 13% of employees in management and the disabled 0,02%.

Ncholo said if a manager implemented the programme successfully, "it will indicate the way in which the budget is allocated in that department, the way promotions are handled, and many other forms of compensation".

He said applying the policy would not lead to huge retrenchments as staff would be trained instead of recruited from outside.

"The government introduced ad hoc measures between 1994 and 1997. We are now embarking on deliberate programmes to train people with the necessary potential."

He said the public service was shedding employees at a rate of eight percent through natural attrition, and, combined with human resource planning, this should help

the government to achieve its goal. Public Service and Administration Minister Dr Zola Skweyiya said the White Paper should be a relief to some white public servants.

"Now that a policy is in place, they can be assured that they will not be thrown out simply because they are white. White people in the public service are just as South African as any of the others."

Nehawu has welcomed the new policy, but cautioned that it should not benefit a small elite.

*We are now embarking on deliberate programmes to train people with potential*

# Affirm or face sack, bosses told

(176)  
Sowetan 29/4/98

HEADS of departments and supervisors failing to implement affirmative action could face dismissal, the Department of Public Service and Administration said yesterday.

Launching the Government's affirmative action policy in Pretoria, director-general Paseka Ncholo said no excuses would be tolerated.

"The Government has now got to the point where it says: 'If you can't deliver on government policy, then you don't deserve to be in government. You have to quit or be dismissed'," Ncholo said. The White Paper on Affirmative Action states that every manager, supervisor and human resource practitioner would be held responsible for implementing affirmative action plans in national Government departments and provincial administrations.

Directors-general and ministers were ultimately responsible, Ncholo said.

Public Service and Administration Minister Zola Skweyiya said affirmative action would be one of the criteria used when evaluating the performance of directors-general.

He added that the policy would be applicable to the entire public sector, including municipalities and parastatals.

In terms of the new policy, public service entities had to set up affirmative action policies containing numeric targets and time frames.

They had to compile employee profiles outlining the gender and race of all staff, and the number of disabled people employed.

The Public Service Commission and the Department of Public Service and Administration would review the departments' progress in achieving their targets, and would report to Parliament, Ncholo said. - *Sapa*.

# Labour law 'will undermine merit'

Louise Cook

~~166~~ (176)  
LABOUR Minister Tito Mboweni's proposed Employment Equity Bill was a "technicolour nightmare" that would bring into question the competence of any black person who was appointed to a senior or middle management position on a farm, Graham McIntosh, president of KwaZulu-Natal's agricultural union, said yesterday.

The bill required any enterprise with 50 workers or more to submit a business plan to government indicating how it planned to implement integration in the workplace.

The bill was aimed at promoting the employment of blacks, women and

handicapped people.

However, stakeholders felt it was likely to compromise appointments on merit and affect large farms and agricultural co-operatives known for their high ratio of white employment.

McIntosh said that, contrary to popular belief, farms had been the one sector of the economy where blacks had had substantial opportunities for advancement to positions of responsibility such as foremen and dairymen.

Government planned to set up an inspection service to monitor progress. Estimated costs of the service were R15m a year and another R6m a year to set up a commission for employment equity and policy development.

BD 30/4/98

# Cabinet challenged to reveal price of state jobs equity

## NP quizzes ministers on bill

(176) (122) ARG 30/4/98

CLIVE SAWYER  
POLITICAL CORRESPONDENT

Cabinet ministers have been challenged to tell Parliament how much it will cost to implement the Employment Equity Bill in each of their departments.

The challenge was made in a series of 25 questions tabled in the National Assembly by various members of the National Party to each member of the Cabinet.

Each minister has been asked to say whether the cost of implementing the bill has been budgeted for.

The questions coincide with this week's release of the Government's white paper on affirmative action in the public service and parastatals.

The Employment Equity Bill, which the Government hopes to have approved by Parliament this year, prohibits discrimination in employment, and the second part introduces affirmative action programmes to deal with apartheid-linked discrimination.

All employers, including the Government, will be required to promote equal opportunity and to eliminate unfair discrimination in any employment policy or practice.

Employers will not be allowed to discriminate against employees on

grounds of race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language or birth.

The bill also puts a ban on racial and sexual harassment, characterising them as unfair discrimination, and prohibits medical testing except under certain circumstances.

The bill does not set racial quotas, but requires workplaces to set their own targets after consulting workers and trade unions.

The Government is one of the country's largest employers, with those on its payroll including the armed forces and the millions in the state bureaucracy.

Implementing the policy in the white paper on affirmative action in the public service will require considerable effort, and the white paper attempts to give this impetus by widening responsibility for affirmative action to all management levels.

The white paper sets affirmative action goals of 50% black people, 30% women and 2% disabled at management level in the civil service by 2005.

Currently women make up only 13% and the disabled only 0,02% at management level.

The white paper requires that

affirmative action be absorbed in the budgeting process of departments.

Affirmative action policies will be incorporated in managers' performance objectives and the performance contracts of directors-general.

Public Service and Administration Minister Zola Skweyiya said the public service was shedding employees at a rate of 8% through natural attrition. Combining this with proper human resource planning should help the Government achieve its goal.

The NP has indicated it will oppose the affirmative action employment legislation.

Rejecting the Employment Equity Bill, the NP said "imbalances of the past created by discriminatory principles cannot be rectified by reverse discriminatory principles".

Meanwhile, staff of opposition parties in Cape Town were struggling yesterday to get copies of the white paper on affirmative action in the public service so they could comment on it.

Government gazettes are published in Pretoria on Fridays and released in Cape Town on Tuesdays.

However, Monday having been a public holiday, by late yesterday copies of the gazette had not yet arrived at government printer offices in the parliamentary capital.

## Inquiry raps Gauteng leader over the knuckles

MOTSHEKGA HOPEWELL RADEBE  
POLITICAL REPORTER

Gauteng Premier Mathole Motshekga's attitude to money, time and management has been attacked in the report of the Negota commission of inquiry.

While the report cleared him of allegations of stealing donor funds, spying for the previous government and nepotism, it paints an unflattering picture of a public figure with little regard for accepted management practices.

It found that he headed a chaotic administration at the the National Institute for Public Interest Law (Nip-lar) in the 1980s.



Premier: Mathole Motshekga

The report heaps some of the blame for the chaos that was Mr Motshekga's operating style on the politi-

cal climate at the time. But it portrays him as an administrator who disregarded advice, arrived late or not at all for meetings and that he performed his duties as director in a "disorganised and haphazard manner".

The commission found that he had conceived of and founded the institute but might not have foreseen the magnitude and the pace of its growth. It argued that he was too involved with other institutions.

The commission found that the way the institute (as headed by Mr Motshekga) accounted for the spending of Trocaire (foreign) donor funds was flawed and insufficient. But it cleared Mr Motshekga on charges of nepotism.

# 'Business stall advancing blacks to higher positions'

*Targets set by Forum are far from being met*

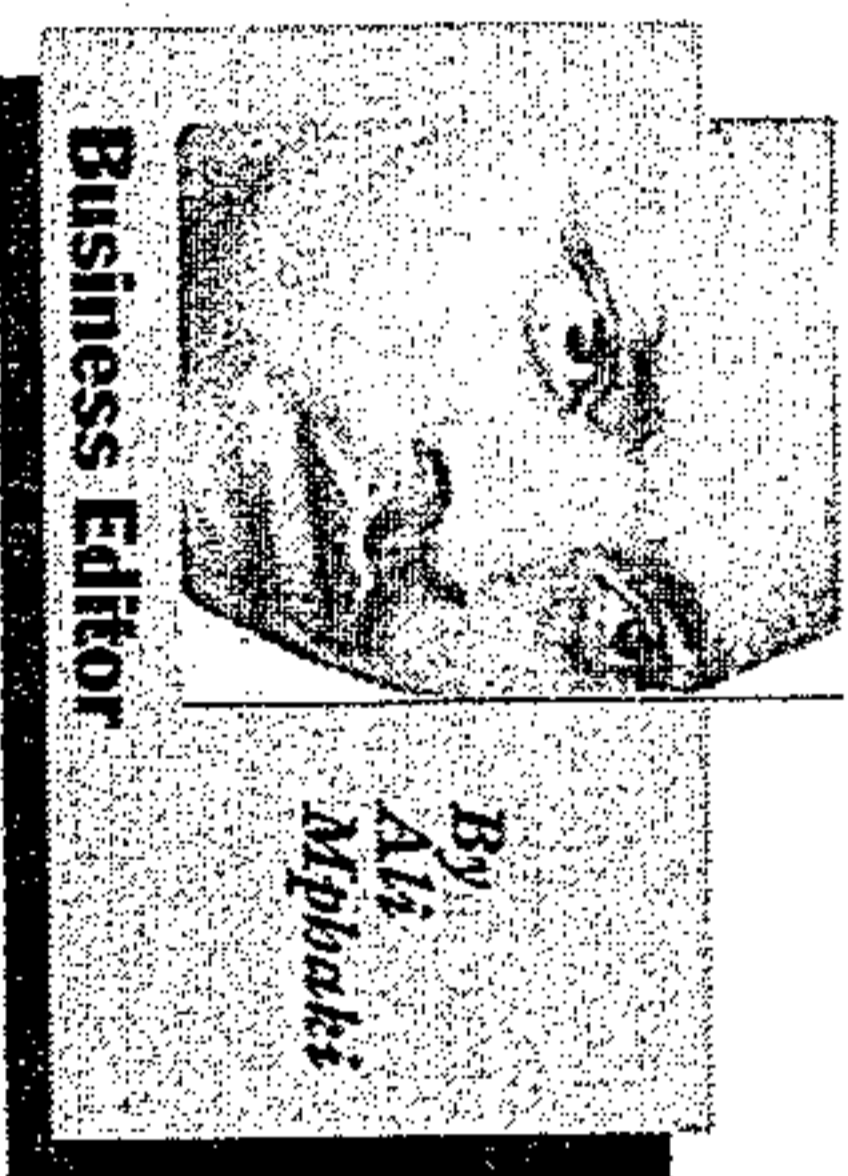
**C**ORPORATE South Africa continued to drag its heels in advancing qualified blacks to higher levels of responsibility in the private sector, said Black Management Forum's acting general manager Jimmy Manyi.

Targets set by the forum six years ago were far from being met.

These included that by the end of the century 30 percent of executive chairmen, 20 percent of middle management should be black.

Manyi stressed the forum was opposed to the imposition of a rigid quota system, but government intervention through the implementation of the employment equity legislation was justified, urgent and welcome.

He added the corporate sector had four years to demonstrate their willingness to intergrate qualified blacks into top structures in the private sector but had squandered the opportunity.



By  
Ali  
Mphahlele  
Business Editor

There was still blatant prejudice against employing blacks at senior corporate level which had to be broken down. Blacks were bumping up against glass ceilings in an effort to reach top level posts.

"Political equity has been achieved but we are a long way off from business and economic equity," Manyi said.

He claimed that given the right environment the BMF's targets were attainable.

"Those targets we set were even more conservative than those set by the public service commission, which aimed at 50 percent of senior posts in the service being black by the year 2000.

Business has failed to come to terms with the reality that in a transformed South Africa business and consumer profiles had changed drastically, and the appointment of qualified blacks with an understanding of changing market conditions made sound business sense.

The forum rejected tokenism and window dressing: "There is still plenty of this in corporate world.

"Little effort is being made to identify the potential of black workers and to train them to a point where they can compete for top posts," added Manyi.

Because of this, growing numbers of black graduates were being sidelined, unable to find work appropriate to their qualifications.

Their lack of experience was put up as a barrier to their employment and advancement, Manyi added.

# Nedlac considers equity bill report

Reneé Grawitzky

SD 4/4/98

(176)

THE National Economic, Development and Labour Council (Nedlac) will consider a report today on negotiations on the Employment Equity Bill ahead of the bill and the report being referred to the cabinet for approval.

The tabling of the report for consideration by the management committee marks the end of Nedlac's negotiation process, and reflects substantial agreement reached on many of the controversial aspects of the bill.

It also records reservations on certain clauses, with a limited number of issues remaining outstanding, which some parties believe can be resolved through trade-offs.

Parties consistently obtaining mandates from their respective constituencies during the negotiation process has reduced potential problems for the management committee.

The labour department said that,

once ratified, the report would accompany the bill to cabinet for consideration. The bill could then be tabled in parliament by the end of next month.

The report confirms earlier agreements on some controversial clauses and tentative agreement on a Congress of SA Trade Union demand for a clause to give legislative effect to attempts to reduce the wage gap.

Parties agreed to expand the range of employers covered by the bill from a company employing 50 or more people to include those with annual turnover in line with provisions in the National Small Business Act.

Small business has reserved its position on the turnover clause as it would increase the number of companies covered by the legislation.

In view of this attempts have been made to ease some of the administrative burdens. Companies employing less than 150 people will only be required to submit a report to the direc-

tor-general of labour on progress made in implementing employment equity every two years instead of annually.

Special regulations for small business will be published including a format to assist in implementing and maintaining employment equity.

Parties agreed on changes to a critical clause which stated that employers would not have to appoint or promote members of the "designated group" who were not suitably qualified. The clause also said employers would not have to introduce quotas, create new jobs or be forced not to employ from outside the designated group.

Parties were unable to agree on the wording of the phrase "suitably qualified person", which has now been referred to government's legal advisers.

Employment equity plans will no longer have to reflect the national and regional demographics but rather the national and regional economically active population.



# Good smoke signals for equity

(176) CT(MR)4/5/98

**A**ffirmative action does not exist at British American Tobacco South Africa (Batsa). But employment equity does, and it is thriving.

Noma Simamane, the brand marketing director at Batsa, says that last year 55 percent of the group's management entrants stemmed from its employment equity programme.

"And we're seeing a further influx at the moment of high-quality black managers," she says. "We're proud of that and they're integrating very well."

At Batsa, employment equity starts at the top and cascades down. Thus Connie Nkosi and Bobby Makwetla are non-executive directors, while Simamane is a full-time member of the board.

What's more, she stresses, several black women besides herself and Nkosi occupy managerial positions.

"And it works," insists Simamane. "If you have a lady in the sales force or in the factory, the men perform better. Their standards improve."

She is opposed to the traditional affirmative action approach because "the worst thing you can do to a business is to bring in numbers". Employment equity, on the other hand, focuses on quality rather than quantity.

"What we are achieving is the employment of high-calibre individuals who are changing mindsets within the business," she says.

Simamane is critical of companies that complain that they cannot find quality black people.

"They are there," she says. "We've proved it. They are not



**JOHN SPIRA**

necessarily there at certain advanced levels. If not, companies must be prepared to train. Technicians, for example, are not plentiful because of South Africa's history."

The fact that Batsa is part of a global organisation is an incentive for high-calibre people to remain with the group. Batsa currently has six staff seconded to British American Tobacco in various parts of the world. More are scheduled to follow in the near future.

Simamane rejoined Batsa in January after spending 18 months with British American Tobacco in the US. She first worked for the company in July 1995. Her induction programme comprised two months in London, a fortnight each in Pakistan and Australia and a week in Switzerland.

When she returned home, she worked in the South African company's marketing department. In October 1996, she became part of a British American Tobacco global project based in Kentucky.

"At the end of last year, the head office was relocated to London," she says. "I decided to come back to South Africa, partly because I wanted to return home and partly because the South African company ... had offered me a directorship along with the top marketing job."

Batsa's marketing function faces huge and, in many ways, unique challenges. Not only is the company up against a mammoth competitor (Rembrandt), but the anti-smoking lobby grows more strident by the day.

Simamane views these hurdles as opportunities.



**MANNING THE HELM** Connie Nkosi, left, and Noma Simamane are two of many successful female managers at Batsa

"In this business one is constantly seeking new and innovative ways of doing things to ensure that you stay in touch with the consumers, who have chosen to be smokers," she says.

"It is a highly stimulating environment in which the law is constantly changing; in which it is crucial that one keeps abreast of issues that affect the business. It makes me more creative."

Simamane embraces the fact that Batsa is a distant second to Rembrandt. "It means there is greater scope to develop and succeed against a giant which has perhaps become complacent because it is big and has considerable sums of money at its disposal. I believe this encourages us to develop strategies to capture market share."

Batsa is constantly urging the government to reduce its crippling excise duty on tobacco.

"We have to continue lobbying

government by referring to the Canadian and Nigerian experience, where high duties fostered illegal imports and all but destroyed the local industry. Eventually duties were lowered and, in Nigeria's case, scrapped."

While Simamane believes brand marketing is the heart of Batsa's business, she readily acknowledges that the function is crucially dependent on other functions in the company.

"We work as a team to ensure that ... we get the help we require from the company's activities to build the brands," she says.

Last year Batsa appointed a distributor in Soweto to focus on its brands and deliver results.

"That appointment has succeeded admirably," Simamane says. "Effective marketing is more about being open-minded in your approach, on the basis that you want to be a big player 20 or 30 years down the line."

# DP's affirmative action view way off mark

In the first of a two-part critique of the Democratic Party's race policy, Firoz Cachalia argues that the DP's stand places it outside the human rights community

(176) 230 5/5/98

**T**HE Democratic Party's (DP's) recently released pamphlet "The death of the Rainbow Nation — unmasking the ANC's programme of racialisation" has provoked little critical comment. This is surprising given its highly controversial content and that it is likely to form the central plank of the party's election platform.

The pamphlet is written in the style of an exposé: it uses selective quotation, simplistic comparisons and alarmist rhetoric to advance the utterly implausible thesis that the old white-on-black racism is now being replaced by a new black-on-white racism.

The African National Congress is angrily denounced for embarking, through affirmative action, on a programme of "remineralisation" of both SA society and politics. All affirmative action is characterised as racial discrimination.

The Employment Equity Bill, for instance, is described as a piece of apartheid legislation, a "population Registration Act for the public and private sector". We are warned that SA is already on the "slippery slope ... to apartheid, American segregation and Nazi Germany".

Curiously, while we are urged to believe that after only four years of democratic rule, we are poised on the precipice of a new apartheid, all reference to colonialism and the old apartheid is dismissed as an excuse for government's failures.

The authors tell us that 300 years of colonial apartheid domination "is such a vague and abstract concept that it applies to everything and nothing. When it comes to identifying and addressing the concrete problems facing SA, it is meaningless."

No student of SA history could seriously dispute that apartheid and its antecedents, British and Boer colonialism, segregation and Smutsian paternalism, used racial classification to oppress, humiliate and discard millions of people on the basis of their physical characteristics and supposed inferiority.

The process is described by sociologist Gerhard Maro: "Millions of individuals in the name of ethnically distinct 'people' who had to develop 'separately' were torn

from their dwellings, bureaucratically fenced into bantustans, cast aside when production methods changed and made into surplus people."

Apartheid did more than merely deny resources and opportunity to people of colour. It created an "aesthetic of the body" which ranked human bodies on the basis of their physical characteristics. In such laws as the Immorality Act and the Separate Amenities Act, it articulated an extreme form of social aversion which repudiated the possibility of human intimacy across socially constructed lines of colour and culture. Racism was embedded not only in laws, but in the apartheid system's political order, economy, society, culture and psychology. In the DP pamphlet, however,

racism is equated with legal labels, unconnected with any social reality or systemic oppression. This leads its authors to ignore the history of racial discrimination and its consequences, and to equate the abolition of laws which classify people according to their race with abolition of the system of oppression. It also leads them to deny that racial imbalances are the result of colonialism and apartheid, and to question the moral basis of remedial action.

Since all people regardless of race are equally endowed, they have equal potential and entitled to equal concern and respect, the argument goes.

Since ability is randomly distributed, one would expect a more or less nonracial distribution of social outcomes in the composition

of public and private bureaucracies and in markets. How then are the racial imbalances in our society to be explained?

For those who reject the idea of superior and inferior races, the answer can only be that racial inequalities are the product of apartheid. They are, therefore, uncorrected and unjust, and warrant corrective action.

It is precisely this point of departure that the DP pamphlet calls into question. The pamphlet, by implication, ascribes racial imbalances not to past racism, but to racial differences *per se*, not to the unjust imposition of disadvantages, but to factors inherent in the African community.

The pamphlet, ostensibly in attack on the "new racialism", is in reality a crude apology for apartheid. While not expressly articulating the discredited ideology of racial supremacy, it fails to recognise the impact of apartheid on the black community. Furthermore, it advances racist reasons for existing racial inequalities. What could be more racist than to deny the loss and suffering of the black community?

The pamphlet also fails to distinguish racist from antiracist uses of racial categories and implicitly denies the need for change in established institutions. All racial classifications, whether or not they have pejorative connotations, and without regard for their purpose, are condemned.

In the jurisprudence on affirmative action, not even the most conservative judges in the US have taken the view that all racial classifications, whether their purpose is benign or invidious, amount to discrimination.

This is also not the view of the framers of our Constitution or of the judges of our Constitutional Court.

Judge Richard Goldstone recently commented that "every time government or private institutions announce plans to redress

the imbalance (between the races), there are objections from within the white community. Some even suggest that the race-based policy aimed at redressing that imbalance merely reintroduces apartheid methodology.

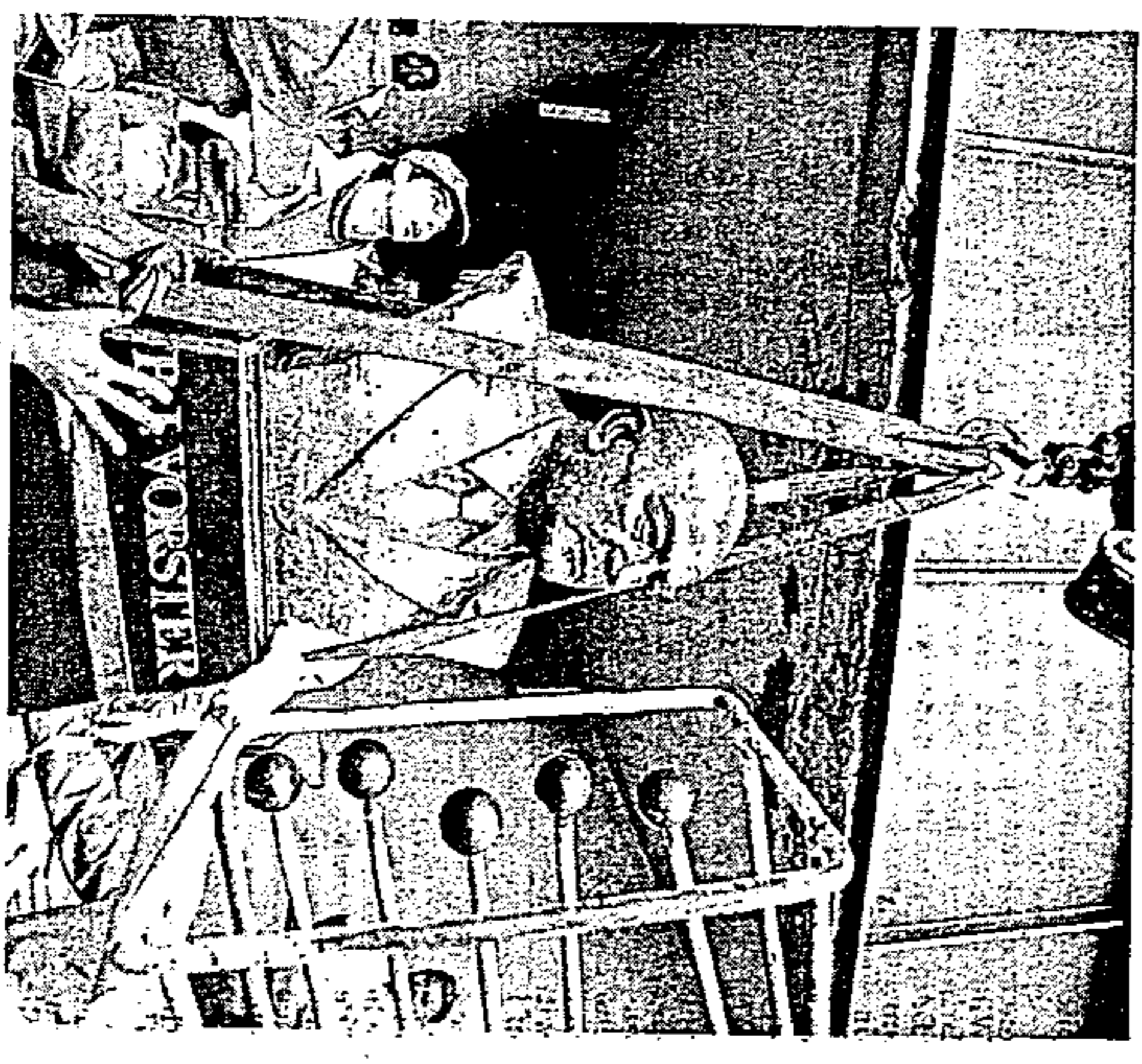
What nonsense. How can one compare racism that oppresses people to a policy that takes race into account in trying to diminish the harm wrought by past racial discriminations?

Of course, the way affirmative action is applied can be criticised. Since it is a group remedy, it could sometimes work unfairly in individual cases. It is ironic that a certain kind of liberalism should be in the forefront of the ideological assault on affirmative action. In the human rights community worldwide, the legitimacy of affirmative action for remedial purposes is recognised. Indeed, it is a concept formulated by US liberals to overcome the legacy of slavery and segregation, and is staunchly resisted by US conservatives in the name of a colour-blind fundamentalism.

□ Cachalia is ANC leader of the house in the Gauteng legislature.



Racism was psychologically and culturally embedded



Former state president John Vorster's bust being removed from the re-named Johannesburg Central Police Station

# Employment bill a 'done deal'

Reneé Grawitzky

~~176~~ (176)

DD 5/5/98

NATIONAL Economic, Development and Labour Council (Nedlac) executive director Jayendra Naidoo said yesterday the Employment Equity Bill appeared to be a "done deal".

Naidoo said after a Nedlac management committee meeting yesterday that consensus was reached on the fundamental issues in the bill.

The management committee, mandated by an executive council meeting in March to sign off the report, was supposed to ratify a Nedlac report on the outcome of negotiations on the bill.

The committee was unable to do so "because of a mere formality".

Naidoo said "further levels of communication were needed before the parties could sign off the report". He said negotiations had been so quick that at times the mandating process did not move as fast as the talks.

It is understood that one of the parties was unable to confirm its final mandate on the Nedlac report ahead of yesterday's meeting.

The management committee has requested the labour market chamber convenors to ratify the report at a meeting later this week.

Once the convenors ratify the report, it and the bill will be submitted to Labour Minister Tito Mboweni and thereafter be presented to cabinet.

The Nedlac report on the outcome of talks on the bill will only be made public once all parties have formally given their stamp of approval.

Meanwhile, a management committee meeting on the presidential job summit has been postponed yet again. Naidoo said the parties wanted to hold a high-level meeting ahead of the Nedlac summit on May 16. He warned, however, that the level of preparation for the summit was in a "critical zone".

# Playing the race card means losing the game

## ANALYSIS

Real equality in SA will not result from ANC-style affirmative action, writes DP leader Tony Leon

We disagree with Cachalia and the ANC, however, over what form that corrective action should take.

We do not believe that real equality will result from ANC-style affirmative action, which seeks to make businesses and sports teams demographically representative by imposing racial preferences in selection and employment practices.

In the case of the Employment Equity Bill, this will require employers to classify their workforce by race, in accordance with a "code of good practice" to be drawn up by the minister of labour. In addition, they will be required to set time-bound racial targets.

If this is not a Population Registration Act for the workplace, then what is?

Cachalia asserts that "in the human rights community worldwide, the legitimacy of affirmative action for remedial purposes is recognised". In fact, support for ANC-style affirmative action is declining rapidly worldwide and for good reason. Firstly, such policies have

proved to be neither temporary nor sustainable. In his international study on racial preferences, the American academic Thomas Sowell points out that "neither the duration nor the scope of preferential policies have proved to be controllable in practice, however often it has been assumed to be in countries around the world".

Secondly, affirmative action is too often used as an excuse not to deal with problems like unemployment and low-grade education. Commenting on 30 years of affirmative action in America, The Economist says that "by and large, each time an issue has been made a racial one, this has been made a racial mishandle it with preferences, or to leave it on one side".

Race may make good politics, but it too often leads to bad policies, because it provides policymakers with an excuse to avoid the really difficult problems.

Thirdly, racial preferences seldom achieves its stated aim of helping the disadvantaged. In his authoritative work on ethnic conflict, Donald Horowitz points out that "by reducing disparities between ethnic groups, preferences are likely to increase disparities between classes within groups". In other words, the rich get better off while the poor get worse off.

One empirical study of the consequences of affirmative action policies in Malaysia concluded that "at most 5% of the population actually benefited. Rather than confronting the poverty and unemployment of a large part of the population, the ANC elite seems to view the poor as little more than a justification for their own sense of entitlement.

ANC-style affirmative action is based on two false assumptions. The first is that opportunities are finite and need to be parcelled out on the basis of race. Thus the contest for access to opportunities becomes a zero-sum game; and if you believe, as the ANC appears to, that the interests of blacks are fundamentally at odds with those of other racial groups, then the contest becomes a racial zero-sum game. Of course, opportunities do

(176) 80 8/5/98

not have to be finite. Indeed, the aim of government should be to expand them. But that requires an economic and labour policy that successfully promotes employment growth and quality education for all.

On both counts the ANC is failing diametrically.

Yet the DP does believe that the government can be proactive about building opportunities for those unfairly disadvantaged by the racism of the past.

That is why we have released a set of proposals to expand training and employment opportunities. The heart of the proposal is that the government should give 2.5-million young people an "opportunity voucher" worth R3 000, which can be swapped for training or employment as a way to kickstart a young person's prospects for advancement. This proposal goes much further than anything the ANC has come up with and I hope that Cachalia studiously avoids any reference to it.

The second false assumption of ANC-style affirmative action is that demographic representation equals racial equality. The idea is that if you force every institution in society to become demographically representative, you will somehow achieve racial equality.

A little reflection reveals the flaw in this thinking. Irrespective of the racial composition of institutions, millions of people will remain unemployed and subject to substandard education if these problems are not directly addressed.

His wild accusations aside, the real weakness of Cachalia's argument lies in one carefully worded paragraph, in which he quickly acknowledges the heart of the problem with the ANC's approach to affirmative action.

He says: "Of course, the way affirmative action is applied can be criticised. Since it is a group remedy, it could sometimes work unfairly in individual cases." Exactly. Our argument is precisely that ANC-style affirmative action is working and will continue to work, unfairly in individual cases.

Only a policy which is founded on a desire to build opportunity and address disadvantage rather than race, can achieve racial equality.



LEON

FIROZ Cachalia (DP's affirmative action view way off mark, Business Day May 6) advances the utterly implausible thesis that the Democratic Party has somehow made a "crude apology for apartheid" with its document The Death of the Rainbow Nation: unmasking the ANC's programme of re-racialisation.

He accuses us of ascribing racial imbalances "not to past racism, but to racial differences per se, not to the unjust imposition of disadvantages, but to factors inherent in the African community". There is absolutely nothing in our document to justify either of these ludicrous conclusions.

The Death of the Rainbow Nation is a critique of the African National Congress's approach to affirmative action and an analysis of the way it plays the race card to achieve its aims.

Cachalia's article revealed far more about his own prejudices than it did about DP policies. The DP does in fact believe that apartheid and other racist policies before it, resulted in gross imbalances. We also believe these racial inequalities were "undeserved and unjust and warrant corrective action".

Registration Act for the workplace, then what is?

Cachalia asserts that "in the human rights community worldwide, the legitimacy of affirmative action for remedial purposes is recognised". In fact, support for ANC-style affirmative action is declining rapidly worldwide and for good reason.

Firstly, such policies have proved to be neither temporary nor sustainable. In his international study on racial preferences, the American academic Thomas Sowell points out that "neither the duration nor the scope of preferential policies have proved to be controllable in practice, however often it has been assumed to be in countries around the world".

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# Simple rewording could be solution

By Ewald Wessels  
14/5/98

NEGOTIATIONS over the proposed Employment Equity Bill have reached a conclusion and cabinet approved it yesterday. Concessions have been made, but in its current form the bill will still reintroduce race into law.

Racial thinking is so ingrained in the collective unconscious of SA that it has made otherwise reasonable people blind to alternatives.

The bill introduces race classification by proceeding from the implicit assumption that, in the absence of discrimination, the composition of the workforce in every company, and at every occupational category, would have approximated the national or regional demographic mix.

Companies will be required to classify their employees to determine the underrepresentation of "designated groups" (everyone other than "white" able-bodied males) at every level. Where "white" males are "over-represented" in any category, a company will be required to practise racial discrimination to "rectify" the situation over time.

What is wrong with this approach? To start with, the members of the task group who drew up the proposals clearly have little understanding of mathematical statistics. Natural variation will normally ensure that even the most fair and equitable of employment practices results in large differences in the composition of the workforces of different companies. To impose an artificial uniformity on the economy would take a fearful toll in economic inefficiency.

At the moral level, the consequences of passing the bill in this form would be profound. The principle of individual rights rests on the notion that every person has the right to be treated on his or her own merits. Martin Luther King once said: "I have a dream my four little children will one day live in a nation where they will be judged not by the colour of their skin but by the content of their character." No one has the right to place any person in some category and assign rights to that person according to some presumption concerning the category.

For this reason, many companies refused to supply racially classified data to the former government. They were not prosecuted. The draft employment equity bill threatens to penalise repeatedly any employer who continues to be true to this principle, with fines ranging up to R900 000.

Why have employer representatives in Nedlac not argued more forcefully against the racial elements of the draft bill? They have a dilemma. Organised business recognises the need to redress the effects of past

Removing provisions in the proposed Employment Equity Bill that will once again polarise SA along racial lines will ensure greater private sector co-operation in implementing the legislation, argues Ewald Wessels

discrimination and is sympathetic to the basic objectives of the bill. The overwhelming majority of companies would like to see every individual able to rise to the level of his or her abilities and aspirations.

How is one to implement affirmative action if one does not re-introduce race classification?

The answer is clear. The racial and "group think" thinkers should be taken off and concepts such as disadvantage should be defined functionally. The problem lies in the use by the bill of the term "designated groups", which is defined to be "black people, women, and people with disabilities" to describe those who would qualify for preferential treatment.

There is an illusion in the apparent logic that leads from statements such as "black people, women and people with disabilities are the most disadvantaged groups in our country" to the conclusion that all members of these groups should therefore be favoured. As with many such sweeping statements, the devil is in the detail.

Realistic analysis of the practical effects will soon show that the harmful consequences of a bill based on simplistic thinking of this kind would greatly outweigh any advantage. The thought that companies in Nelson Mandela's SA could be required to treat people according to the colour of their skin, rather than the content of their character, is bizarre.

Is it possible to remove the racial element of the draft bill without robbing it of its force? The main practical measure of the bill is the duty placed on employers to analyse their employment practices, to eliminate any discrimination, and to prepare, submit and implement a plan detailing positive actions that will result in greater employment equity.

Very little, if any, of the positive effect of this measure would be sacrificed if the racial and group elements in the definition of people qualifying for preferential treatment were deleted. Since the great majority of people against whom there has been discrimination in the past are black, women, or disabled, such people will automatically be in the majority among beneficiaries of almost any honest plan to implement employment equity. But the courts should not be obliged to accept skin colour as a sufficient criterion, on its own, to justify discrimination

in employment decisions, as the current wording of the draft bill would require.

By simply replacing the reference to "designated groups" in the draft bill by a reference to "designated people", defined as "people who are at a disadvantage because of discrimination suffered by them in SA in the past", much of the objection to the current draft bill could be met. The purpose of the bill should be to advance as rapidly as possible South Africans who have not been able to achieve their potential because of past discrimination.

For an individual company, the rate at which people can be employed or promoted is determined by the growth of the company and by the personnel turnover. Both these factors are normally related to the size of the company. The existing racial composition of the workforce is almost irrelevant.

It is logical, therefore, to evaluate the affirmative action plans that companies will be required to submit to the labour department against the number of people employed by the company, not against the racial composition of its workforce. Only where a company claims that its past employment practices have been such that it requires no corrective action, should it be required to submit evidence that would exempt it from the equity planning requirements.

Such evidence could include data on the composition of its workforce in terms of the race classification determinations of the previous government. The current government should not embroil itself in attempts at race classification.

In deciding whether an individual is entitled to preferential treatment in terms of the bill, companies should be required to determine whether that individual is disadvantaged as a result of past discrimination in SA. The first point of reference should be gender, disability status, and whether the individual was classified by the previous government as anything other than "white".

However, the favouring of immigrants — on the basis of skin colour — who did not suffer discrimination in SA, and the "poaching" of people who have already reached their full potential to convey an illusion of equity, is immoral and should not be encouraged. Where uncertainty exists over the "disadvantaged" status of individuals, the Labour Court would soon develop a body of case law which would provide guidelines in the application of the act.

There is going to be a severe problem of administrative incapacity in implementing the bill regardless of its detailed content, and the willing co-operation of the private sector is vital if the aims of the bill are to be met. A bill that does not again polarise SA along racial lines will obtain this co-operation much more effectively.

Wessels is a member of the Cape Chamber of Commerce and Industry executive and the Seifsa council.

## CLICKS

New Clicks Holdings Limited  
(Incorporated in the Republic of South Africa)  
(Registration number 96/00645/06)  
("New Clicks")

Acquisition by New Clicks of the Priceline Unit Trust and the  
Second Priceline Unit Trust (collectively "Priceline")

# Cabinet backs two labour bills

CT/BR 14/5/98  
LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — Cabinet gave the go-ahead yesterday for the employment equity and skills development bills to be submitted to parliament.

The bills are likely to be passed by June or July this year, despite continued disagreements on some aspects by business and labour.

Tito Mboweni, the labour minister, said the greatest progress during negotiations in Nedlac had been made on the employment equity bill.

An important change is that firms employing 50 or more staff members would no longer have to automatically submit employment equity plans. Only employers who have turnovers higher than those used to classify small and medium-sized enterprises would have to submit plans. This was irrespective of how many employees they had.

Mboweni said that after

(176) representations from the public, it had become clear that the 18-month period in which reports had to be submitted by employers was "unreasonably long". As a result, employers would have to submit reports within 12 months if they employed fewer than 150 people and within six months if they employed more than 150 people.

Employers with 150 staff or fewer would have to submit subsequent reports only once every two years. Larger employers would have to report back every year.

To prevent confusion over who would handle disputes, it had been decided that these would be handled by labour inspectors and the director-general of labour.

The Commission for Conciliation, Mediation and Arbitration would still handle disputes over unfair discrimination, with the labour court acting as the final point of appeal.

Factors to be considered when

(176) preparing and assessing employment equity plans had been broadened. The plans would no longer have to take into account national and regional demographics alone, but the national and regional demographics of the economically active population.

Employers would now also have to consider the equitable representation of various groups, "so that they should not focus on one particular group disproportionately", Mboweni said.

"Other business constraints have now been incorporated in the assessing of plans, such as the labour turnover (or lack thereof) for employers, as well as current and planned vacancies."

On the skills development bill, Mboweni said there had been "a remarkable degree of agreement" in Nedlac. He was pleased that employers had agreed to contribute an amount equal to 1 percent of their payroll towards skills development.

# Whites 'left in the dark' about prospects

**W**HAT is government's policy towards young, able-bodied, white men at university or technical college?

This question does not aim to express an opinion about affirmative or "corrective" action, as many in government prefer to call it (following, perhaps ironically, the Afrikaans version of the term).

It is, rather, to highlight a vagueness in government policy which has been ignored in the debate on the Employment Equity Bill and which needs urgent clarification if we are to address our challenges in a rational way.

White men are singled out by the question because they are at the bottom of the "corrective action" pile which targets race, gender and disability. But white women are probably affected too because whatever official policy says, there is no doubt in anyone's minds that race is a far more important spur to corrective measures than gender or disability.

Young whites at colleges or universities are probably most likely to be affected by those measures since they are not yet in jobs and will be seeking them in the next few years.

They may also be victims of an irony, which was pointed out by German academic Theo Hanf at a conference in Bonn last week. He noted that the problem with "historical justice" which seeks to correct the wrongs of the past is that it is likely to penalise people who were not perpetrators and benefit those who were not victims.

His comment is overstated but has more than a grain of truth. The white generation which participated in political and social life during apartheid — including those who actively implemented it — are unlikely to be much affected by "corrective" measures. They are safely unscathed in jobs. There is more than a little irony in the fact that many people who told the truth commission of their brutality in defence of apartheid will live out their lives in well-paid jobs while the next generation shifts to the back of the queue.

Many of those black people who lived through the harshness of apartheid will also never benefit from the corrections: the system deprived them of the basic skills and qualifications they needed to benefit from racial preference and

The new affirmative action legislation puts whites at the back of the employment queue. Steven Friedman argues that if government wants to accommodate them in the economy, it needs to spell out how it plans to do so

it is too late for them to start acquiring them now. It is, rather, their children who will be compensated for their suffering.

None of which denies the need for action to tackle racial inequities: but it does suggest that young whites do have a case when they complain about taking the rap for the sins of others. Perhaps more importantly for our future, corrective action's proponents in government are saying two things about SA's future which are difficult to reconcile.

The first is that we need to give job preference to historically disadvantaged groups. The second is that whites, particularly those with qualifications, should commit themselves to the new SA by staying here and contributing.

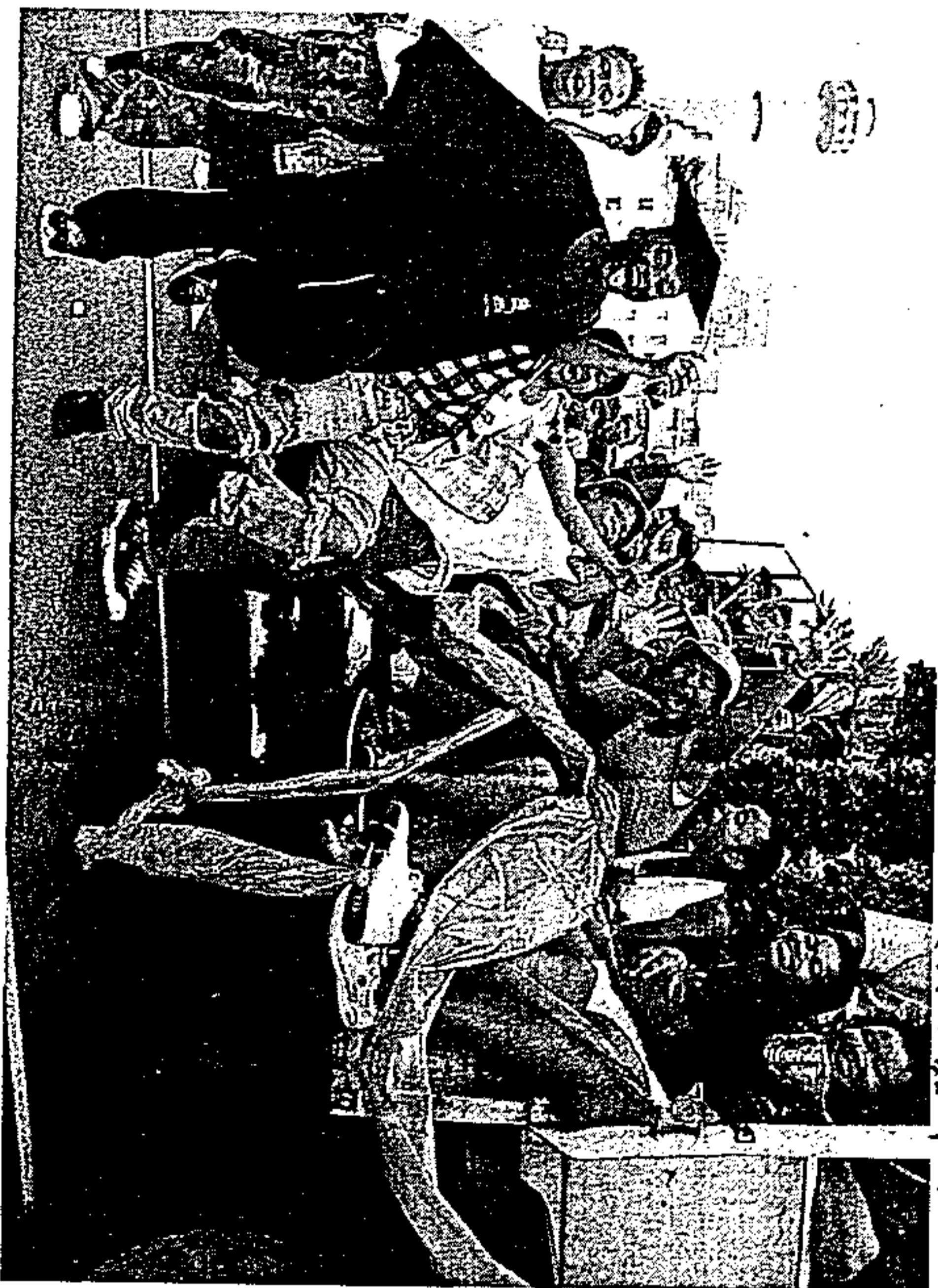
But in what way should they contribute? However committed to our new order they may be, they cannot contribute to it if they cannot work. There is a perception among some (probably many) young whites that they have few prospects because they will be placed at the back of the queue.

It is feasible to have both "corrective" action and opportunities for previously privileged minorities. Of course, as Malaysia has shown, it is a great deal more feasible if the job market grows consistently than if it is stagnating or shrinking, as ours is. But even in a weak job market, it is possible in principle to devise criteria which allow white men to compete for jobs in a set of rules which gives others a head start.

But, if that is to happen, the rules must be spelled out. Yet government has not told white men, young or otherwise, what the new rules are. Indeed, one aspect of the Employment Equity Bill which has not received much comment is that it seems designed not to tell them.

All they will learn from the bill is that they can work for, or presumably start, firms which employ less than 50 people since these companies do not have to

(176) PD 18/5/198



Running to the front of the queue... race is an important spur to corrective employment measures

comply with most of its provisions. It may well be that now businesses, professional practices and working for smaller businesses is the route which many young whites will follow. Practicalities suggest that it would be foolish of government to intervene in this section of the economy and that it probably will not try.

But there is no guarantee that smaller organisations will remain untouched: certainly, government has not said clearly that it views them as vehicles for white participation in the economy.

Nor does this division seem defensible (except on practical grounds): why is justice served only in bigger companies? Why is morality served if the disadvantaged work in large organisations while the formerly advantaged work in small ones? What criteria justify a division based on the size of organisations, rather than on something more related to the nature of the problems?

The bill's procedures for bigger organisations create the sneaking suspicion that government is passing the buck to businesses. It is business which must draw up employment equity plans — and it, in consultation with its employees, will decide how "corrective" action is to be implemented.

The bill offers no concrete guidelines on the criteria to be used. Although unions and government will be involved in the process, there is a rich irony in this, which takes us back to Hanf's point. At least initially, middle-aged white men, most of whom probably received education in whites-only institutions and their start in business and management at a time when black people had no opportunities, will decide the employment future of young whites who are far less likely to have benefited from apartheid.

In fairness, government may not have deliberately tried to pass the buck. The bill's formula may have stemmed from a desire not to impose rigid quotas and to leave "correction" to businesses and workers.

But the justice of a law which allows the generation who benefited from discrimination to preside over the distribution of opportunities to the next is questionable. The result is to leave young whites — men in particular — no wiser as to their prospects.

If government believes job preference is needed to right the wrongs of the past, it should be obliged to spell out clearly how and under what rules this will be implemented.

Equally importantly, it cannot have its cake and eat it. If it has no interest in retaining young whites in the economy and society, it should say so. If it does want to retain them, it needs to devise — and publicise — a policy which tells them under what conditions they are to be accommodated.

Knowing that you can compete, even if the rules favour others is obviously preferable to not being considered at all.

Despite greater clarity on some issues, one weakness of our present political leadership is a tendency to duck hard choices — sometimes by presenting them as clear-cut moral issues which are opposed only by those with an interest in preserving the past.

Trying to advance the interests of a rising black elite while retaining the participation of the white minority requires hard choices — and a careful spelling out of details — because even issues which government may see as morally clear-cut affect people's interests and throw up difficult dilemmas. It cannot bury its responsibility in a landslide of rhetoric.

So, if government is serious about achieving both goals, it has to tell us — in detail — how it is going to do this.

□ Friedman is director of the Centre for Policy Studies

# FORUM

*WORKPLACE A trio of employment bills carries severe implications for management on affirmative action and training, yet few companies so far are heeding the message*

## Employers with heads in the sand will be kicked in the rear

(196)

(196)

CT/BA/18/6/98

South African employers must rapidly remove their heads from the sand if they are not to be faced with a rude wake-up call 18 months down the line.

Dr Denise Meyerson, who heads Johannesburg-based Corporate College International, warns that time is running out for employers who are flinching at the prospect of ignoring the SA Qualifications Authority Act, the Employment Equity Bill and the Skills Development Bill.



JOHN SPIRA

She finds employers are particularly indifferent to the implications of the Employment Equity Bill, which, if it becomes law in its present form, will require employers to pay 1 per cent of their payroll bill as a levy to the sector authority, which will repay the levy in accordance with the training conducted within the employer's organisation.

The rub comes in the requirement that the training in question must comply with the National Qualification Framework (NQF) as laid down by the SA Qualifications Authority Act (Saqaa) and the Skills Development Bill.

"The framework", says Meyerson, "encapsulates the entire restructuring of training and education in South Africa, whereby qualifications will be competence-based and work place assessed. It is a complete mind-switch for companies to move in that direction."

How have employers reacted? "Some are taking the stance that they will pay the 1 percent as an RDP donation, because they don't want anyone to tell them how to run their training programmes."

"What they fail to realise is that they then have to contend with the employment equity legislation, which imposes a fine of up to R900 000 for non-compliance. Few appreciate they have a mere 18 months to comply and implement their training and employment equity plans."

Meyerson says many employers are hoping to escape the consequences of non-compliance by producing expensively bound, impressively constructed documents which they will submit to the labour department.

"But when the inspectors come back the next year, they're going to want to see movement;

to see how many affirmative action managers have been appointed. The employer might respond that the necessary skills were not available; that one cannot promote people who do not have the requisite skills.

"Upon which the inspector will demand the employer's training and development plans for each person in the organisation. The employer will be obliged to provide some very hard facts to explain why those provisions have not eventuated."

"He will have to demonstrate that he did indeed plot each employee's training and career development path; that the employees had attended relevant training programmes and could not thereafter prove competence."

Meyerson cautions that it is not enough to prove an investment of, say, R5 million in a training centre within the firm. The employer also has to demonstrate results.

"You cannot plot career paths unless you have the competencies and the standards for every position within your organisation. Standards will eventually be generated in South Africa, but it will take another two years before this is achieved." In the interim, Meyerson advises employers to buy international standards.

Corporate College International, formed six years ago, offers a variety of programmes, among them literacy, English proficiency, supervisory management and customer service.

Meyerson says the firm always accredits its programmes internationally, through Pitmans, because local examining boards do not exist for every discipline.

Three years ago she spent time in Britain to learn how to upgrade South Africa's teachers and trainers. She learned the way they were trained in Britain differed markedly from the local approach.

"Everything there is competence-based. In other words, employees are invariably assessed by teams of workplace assessors in the workplace. Here we do training programmes but we don't follow through and monitor employees where they work; how they apply the skills they have acquired."

When she returned, she decided it was essential to go the

international route. She brought out an international trainer to train workplace assessors here.

As a result, Corporate College International is the first registered City & Guilds centre in South Africa offering this type of training. City & Guilds is the largest examining body in the UK, processing about six million students annually.

Hence, Corporate College International's training is NQF-aligned, which, Meyerson stresses, is crucial.

"When a person comes out of any training course, the qualification has to have the Saqaa stamp. If the employer is to receive the training grant,

"Most employers haven't a clue as to what is involved. I've been doing many presentations, and at the end most employers want to shoot me. It won't help them to shoot the messenger."

Meyerson points out the bills were passed through Cabinet last week, highlighting the need for urgent action by employers. She identifies the cost of

changing the system as a prime reason why employers are rallying against the proposed legislation. And the changes will be radical.

"Eventually you will only train in the skills gaps, where you need to upskill someone. It won't be a case any longer of sending 10 people on a supervisory programme — people who were not assessed beforehand, nor after completion of the course."

Without prior assessment, you don't know what skills they are bringing into the training room. That's a waste of time and a waste of money."

Meyerson envisages training becoming highly targeted, with a growing number of one-on-one programmes.

"Time, of course, will be a big factor. Everyone will need to be assessed according to predetermined standards. The individual will have to collect all kinds of evidence to prove that he or she is competent to do his or her job at a certain level."

"And that person also has to be assessed by a qualified observer. You will have to carry around with you your portfolio of evidence, which will contain proof of all your skills."



PLAIN TALKING Denise Meyerson, head of Corporate College International, has been telling employers they need to reform



# Equity bill 'follows good global practices'

(176) (176)

CT (PR) 21/5/98

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

Cape Town — The Employment Equity Bill was in line with international good practice in human resources management and was aimed at achieving real progress in affirmative action in the workplace, a parliamentary committee heard yesterday.

Loyiso Mbabane, the director of equal opportunities in the department of labour, told the select committee on labour and

public enterprises that contrary to the alarmist responses from some sectors, the bill had been passed quickly at Nedlac precisely because it was so reasonable.

But it did recognise that firms had to be forced by means of specific legislation to make the elimination of discrimination at work a reality, "otherwise this will remain merely wishful thinking", Mbabane said.

He quoted from an article written earlier this year by Justice Richard Goldstone in which he

warned that South Africa was "living in the shadow of a time bomb" of inherited inequalities and that it was in the interests of all concerned to do something concrete about this. Mbabane said the bill, which would be tabled in parliament next week, clearly spelt out how firms should implement equity but did not stipulate quotas or in any way imply, as some had suggested, that white males no longer had a place in the workplace.

Firms would be required to draw up plans to implement equi-

ty in close consultation with employees so they addressed the realities on the ground in every company. These would be monitored to ensure they were implemented in real ways, and not through the creation of artificial posts to accommodate previously under-represented employees.

These plans only had to be submitted to the government if companies were designated as being larger than small and medium enterprises in terms of annual turnover.

# Govt warned on affirmative action

ET 22/5/98

MARCO GRANELLI

(176)

GOVERNMENT departments have been warned to pull up their socks to apply affirmative action or face stiff penalties.

Parliament's Public Service Portfolio Committee chairperson Salie Manie (ANC) issued the stern warning during the Public Service budget debate in the National Assembly yesterday, telling the government it should lead by example.

Those departments lagging behind for so long must pull up their socks. When the Employment Equity Bill is passed (scheduled for later this year), the government, like all other employers, must account with respect to the progress they have made, he said.

Manie said targets set by the White Paper on affirmative action — 50% blacks in management and 30% women in middle and senior management by next year — were firm quotas. "We are past the point of having to debate this matter. This is not only a Constitutional requirement but this government, as an employer like any other, will be subjected to fines if their targets are not met.

"If we expect the private sector to implement affirmative action then the state must lead by example."

Public Service Minister Zola Skweyiya agreed that affirmative action progress was slow: Although the public service has made significant progress towards being broadly representative of society, this has occurred unevenly. The recruitment of people with disabilities (which, according to the White Paper, should represent 2% of the public service by 2005) has also been slow as the definition of disability still remains a challenge.

He confirmed that retrenchments were being planned as voluntary severance packages (VSP) had failed to achieve the desired transformation.

He said interest in voluntary severance packages was also dwindling. Altogether 58 947 applications were received by February 1 last year. This rose by only 12% over seven months ending September 1 last year.

Skweyiya said of the 65 848 applications received by September last year, 48/054 were approved.



Justice Minister Dullah Omar and his deputy, Manto Tshabalala-Msimang, address the media at the launch of the Equality Legislation Drafting Project at the Union Buildings in Pretoria yesterday.

Picture: TREVOR SAMSON

## State role essential to end discrimination, says Omar

Taryn Lamberti

(176) (10/1)

JUSTICE Minister Dullah Omar launched a project yesterday aimed at drafting legislative measures to prohibit unfair discrimination and said state intervention was essential to bring about equality.

"We have to ask whether it is enough to ban discrimination," he said.

"Perhaps this legislation, or other legislation has to address strong affirmative measures to rectify the imbalances of the past."

Omar used the opportunity of the

project's launch at the Union Buildings in Pretoria to take a jab at the media.

They "deliberately ignore what government has actually done and is doing", he said.

"Those things either do not suit their agenda or are not sensational enough and therefore do not sell newspapers," he said.

The project will be conducted by the justice department in conjunction with the SA Human Rights Commission. Omar said there were certain areas of discrimination that needed immediate action and interim legislative inter-

vention was an option to be looked at.

These issues included the right to inheritance for black children born out of wedlock and children other than the first male child; the removal of minority status for women married under customary law; recognition of religious marriages, including Muslim and Hindu marital unions; and the recognition of religious personal law.

"Action is needed in all these areas — not in the distant future — but immediately so as to ensure that the equality principle is respected in word and in deed," Omar said.

SO 26/5/98

# Affirmative steps might become law

LEGISLATION to outlaw discrimination might have to include strong affirmative measures to rectify imbalances of the past, Justice Minister Mr Dullah Omar said in Pretoria yesterday.

Launching a project to draft anti-discrimination legislation, he said state intervention was essential to bring about equality in South Africa.

There could be a need for such measures in the field of employment or at universities and schools, Omar told reporters.

A special project unit, headed by constitutional expert Mr Johann van der Merwe, has been set up to draft anti-discrimination legislation.

The Constitution requires such legislation to be passed before February 2000. The unit, which comprises five people, will be accountable to the South African Human Rights Commission, a management team of the Ministry of Justice, and to Omar.

Omar said the idea of minimum Government intervention was totally inappropriate when it came to restoring past imbalances. "In Government we have come to the conclusion that the propagation of the notion of a minimalist state is designed deliberately to make it impossible for Government to redress the massive inequalities created by apartheid."

"Nothing less than the law itself will have to contribute to the eradication of discrimination. After all, it took many laws, over many years, to make discrimination a firmly entrenched part of our society."

Legislation to redress this would have to provide legal recourse for the victims of discrimination. Ways of dealing with perpetrators would also have to be examined. - Sapa.

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Eberhard Bertelsmann SC. ed to which a footstool could national court, they would have to... Foreign ministers of the group meeting in Carta- apartheid began

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# Business Day

WEDNESDAY, MAY 27 1998

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## Sacob urges government to set limit on affirmative action programmes

Stephen Lauffer

THE SA Chamber of Business (Sacob) told the truth commission that government should be urged to impose time limits on affirmative action programmes, including those affecting state tenders.

The suggestion came in a supplementary submission to the truth body which Sacob said was aimed at "entrenching democracy in SA". The submission followed one last October in which the grouping said a strong ar-

gument could be made that organised business should have done more to get rid of apartheid.

The call for limits on affirmative action programmes was coupled in the latest document with an acknowledgement of the need to redress past racial imbalances in the ownership and management of SA companies. It said corrective action should end "once the nation has been normalised".

Although progress had been made in recent years, there was still some way to go before the business sector could claim to be sufficiently representative of different interests. It could not hope to maximise its influence with a democratically elected government until a new balance was found.

This provided a strong argument for extending empowerment schemes and programmes. Such initiatives would be more effective if they were integrated into business strategies because they made sense, rather than because they were imposed through legislation. Sacob warned that affirmative ac-

tion and empowerment initiatives should not come at the cost of job creation and decreasing international competitiveness. In attempting to create visible signs of black empowerment, racial divisions in business should not be created or perpetuated.

The commission had developed an understanding of what had given rise to the SA of today, Sacob said. The challenge now was to support reconciliation by reconstructing the economy to ensure growth and job creation.

Formalised consultation between the social partners through such institutions as the National Economic, Development and Labour Council (Nedlac) should be strengthened so that organised business was able to influence government policy-making in a non-confrontational way.

While Nedlac continued to exist, the process of engagement could continue. In its absence a government intent on more malevolent, less democratic ideals could pursue them without taking account of the views of some or all of the other social partners.

BD 27/5/98

# Finance inefficiency blamed on affirmative action

**JOYAL RANTAO**

THE National Party and the Freedom Front have blamed the shortcomings in government financial management on the ANC-led government affirmative action policies.

NP spokesperson on finance Theo Alant said: "It is clear that South Africa is paying dearly for the way in which ANC-

controlled departments and institutions apply affirmative action. In spite of the heavy tax burden on the taxpayer the financial administration of the country deteriorates every year."

Yesterday he tabled a notice of motion asking Parliament to agree that SA was "paying dearly for the way in which ANC-controlled departments and institutions apply affirmative action".



*1765 OF 27/5/98*

Auditor-General Henri Kluever has asked the government to urgently consider taking steps to prevent the further flight of skilled and experienced staff. Kluever said the departure of skilled staff and the lack of proper training for newly appointed staff were largely responsible for the deterioration of finance management in government at national, provincial and local levels.

He said the shortcomings had led to unauthorised expenditure of R1,1-billion by state departments.

The FF's Willie Botha said the over-hastiness of the ANC in applying affirmative action was largely to blame for the poor financial controls. The ANC had no moral right to continue with tax increases until it had placed its financial management in order.

# 'Laws needed to avoid chaos'

THE Employment Equity Bill which would be tabled in Parliament soon was aimed at redressing historical workplace inequalities and avoiding chaos in future race and industrial relations, Labour Minister Tito Mboweni said yesterday.

Speaking at a Southern African German Chamber of Commerce and Industry luncheon in Johannesburg, where he engaged in robust debate with German businessmen, Mboweni said there was widespread misinterpre-

tation of the Bill.

While acknowledging that the Bill was contentious, he said the Government was forced to come up with this legislation and the Skills Development Bill to address historical inequalities such as racial and gender prejudice.

"There are all these inequalities in our society, most of them historical, that we have to address now if we are to avoid chaos in future," he said.

Reacting to concerns that the Bills were a step back towards apartheid

laws where issues such as race were paramount, Mboweni said this was a miscomprehension of the laws as their basic principle was non-discrimination of any kind.

Similarly, skills development and employment equity could not be left to the vagaries of market forces as these had failed to resolve inequalities in the country for three centuries.

Mboweni said there was no need to be apprehensive about the Bills. -

Sapa.

*Lawyer 27/5/98*

# White kids won't get raw job deal, says Mboweni

## Demographics key factor

(176) (176) ARLT 28/5/98  
CLIVE SAWYER  
POLITICAL CORRESPONDENT

Employment equity legislation will not leave young whites worse off, Labour Minister Tito Mboweni has told Parliament.

Replying to questions by Pieter Groenewald of the Freedom Front, Mr Mboweni said the proposed law would require all employers to take into account the demographics of the economically active population when implementing it.

Whites have a higher proportion of economically active people than that of the population as a whole, he said.

The legislation would prohibit discrimination on the grounds of race and age. In bringing about equity, representation of previously disadvantaged groups would be required.

"White youth will therefore not be worse off when compared to those of the other groups, as representation in accordance with the country's statistics will have to be observed," Mr Mboweni said.

The legislation differed from apartheid legislation, which also

required racial classifications, because it was intended to ensure all were represented in the workplace.

At the same time, Mr Mboweni outlined details of plans to encourage training in the workplace.

The Skills Development Bill, to be tabled in Parliament soon, would introduce a new system of learnerships.

Instead of focusing only on blue-collar skills, learnerships would also involve the service, agriculture, manufacturing and mining sectors.

Mr Mboweni said a new levy and grant system would create financial incentives for employers to participate in the learnership system.

Employers would have to pay 1% of their payroll to finance skills development in their companies.

Employers would get grants, against their levy contributions, when they provided work experience opportunities. "This scheme is the foundation of a new partnership between the public and private sectors in our country, which must revolutionise the quality and relevance of the knowledge and skills of our workforce," Mr Mboweni said.



□ EMPLOYMENT EQUITY

CT (OR) 2/6/98 (176)  
**Alliance to support employment bill** (176)

Several non-governmental organisations in Gauteng and the Western Cape joined forces yesterday to form an employment equity alliance to support the application of the Employment Equity Bill. "This alliance is made up of women's organisations, organisations of the disabled, legal and human rights organisations, lesbian and gay rights organisations, HIV/Aids lobbying organisations as well as the statutory Commission on Gender Equality," alliance spokesman Mazibuko Jara said yesterday. Jara said the bill correctly proposed affirmative action measures to address racial and gender inequality in the workplace.

The alliance plans to mobilise civil society organisations to discuss and enrich the bill with the aim of securing an employment equity act which effectively deals with the removal of unfair discrimination and the implementation of affirmative action measures. The work of the alliance will include joint meetings and seminars to discuss the bill and its effects on various sectors, joint and individual submissions to parliament and lobbying parliament, political parties, business and labour. — Sapa, Johannesburg

# Discriminatory employers will be on the block

~~(176)~~ (176)  
FRANK NXUMALO

CT (MK) 11/6/98 LABOUR EDITOR

Johannesburg — Businesses which failed to take steps to remove all discriminatory practices from their pay policies could face legal action when the Employment Equity Bill becomes law later this year, FSA-Contact, the human resources consultancy, said yesterday.

However, complying with requirements of the bill could place companies under enormous financial pressure, the consultancy said.

Hennie Steenkamp, a senior consultant at FSA-Contact, said while many local companies had implemented affirmative action plans and ensured that their recruitment and disciplinary practices were fair and justifiable, many "still discriminate along racial lines when it comes to pay and benefits.

"Some discriminatory practices include providing lower or no pension benefits to women or black employees compared with other groups, different salary scales for people doing the same job because of their gender or race, and discriminating against one group within the organisation in terms of medical aid or housing benefits."

Steenkamp said companies should immediately review job classification and grading policies and systems to ensure they meet the requirements of the bill.

Employers should also review salary scales, pension, housing and medical aid benefits to ensure that these do not exclude or prejudice any employee on gender or racial grounds.

"Employers cannot delay dealing with the issue (because) the bill requires employers to collect information and conduct analysis of its employment policies, practices and procedures to identify employment barriers which adversely affect women, the disabled and previously disadvantaged," Steenkamp said.

# 'Govt told police to commit illegal acts'

PRETORIA — The former government ordered security police to commit illegal, including bogus terrorist attacks, to fight the African National Congress (ANC), retired police commissioner Gen Johan van der Merwe told the truth commission yesterday.

"In 1988, the security police was the only line of defence against total anarchy in the country," Van der Merwe testified in the amnesty application by him and nine other policemen for offences arising from the death of Mamelodi activist Stanza Bopape on June 12 1988.

Bopape died under police torture, but police secretly disposed of his body and claimed he had escaped. Van der Merwe headed the security police at the time.

Five of the applicants were directly involved in subjecting Bopape to electrical shocks. They are Lt-Col Adrian van Niekerk, Maj Charles Zeelie, W/O Hendrik Mostert, Sgt Johan du Preez and Const Jakobus Engelbrecht. Brig Schalk Visser and Capt Leon van Loggerenberg are seeking pardon for their role in getting rid of Bopape's body.

Van der Merwe and two other former police generals, Gerrit Erasmus and Petrus du Toit, were involved in covering up Bopape's death. Van der Merwe said the months preceding Bopape's death had been worse than a conventional war.

The ANC/SA Communist Party had embarked on a full-scale people's war, seeking to mobilise the masses against the government. It also used intimidation to compel moderate blacks to join the revolution, he said.

"This was an undeclared war in which the enemy operated outside the Geneva convention." The government ordered the security police to commit acts outside the law. Former law and order minister Adrian Vlok, for example, instructed police to blow up Cosatu House in Johannesburg.

He said Vlok later told him that former state president PW Botha also wanted the Johannesburg offices of the SA Council of Churches, Khotsiso House, destroyed as well. Both operations were planned and carried out by members of the Vlak-plaas security police base.

The aim of bogus terrorist attacks, Van der Merwe said, was to create a climate for justifying cross-border raids on ANC bases.

The Bopape family's legal representative, Gys Rautenbach, earlier asked the amnesty committee to subpoena Vlok to testify. "We have to know whether it was only the police or the politicians as well," Rautenbach said.

The committee decided to give a ruling on the matter only after all the evidence had been heard. Capt Van Loggerenberg testified that he was worried he might be grabbed by crocodiles while disposing of Bopape's body. He said he rolled Bopape's body into the Komati River between SA and Mozambique on the night of his death. "I later visited the place again for braais," Van Loggerenberg said. — Sapa.

## Sanco demands taxi regulation

THE SA National Civics Organisation (Sanco) called yesterday for immediate regulation of the taxi industry to end violence and hinted at boycott action.

Government had to protect the poor who were most affected. People used minibuses taxis because public transport was inadequate. Lack of regulation led to "mad capitalism" and "extreme" competition.

"We cannot allow our people to be maimed, killed and become victims of a war that has no end," it said. Sanco called on Transport Minister Mac Maharaj for a single industry association with which all minibuses taxis would have to register. It also urged business, which punished workers for lateness and absenteeism, to become involved. — Sapa.

## Stating of equity bill 'based on ignorance'

Reneé Grawitzky

FEARS of affirmative action should not result in unnecessary criticism of the Employment Equity Bill, Arthur Andersen's employment law unit head William Berry said yesterday.

Berry said negative criticism was based partly on the fact it had not been read properly. The bill proposed a great deal of flexibility and encouraged em-

ployers to find their own solutions to employment equity, he said. Affirmative action was central to the democratisation of the workplace.

Government had initially adopted a hands-off approach and made some provision for affirmative action in the Labour Relations Act. This did not, however, facilitate sufficient progress in implementing programmes, he said.

The bill currently facing debate in Parliament was an attempt to

get employers to implement programmes without too much government interference, and if this did not work government might be forced to implement quotas.

The Employment Equity Bill and the Skills Development Bill have yet to be tabled as they are facing approval by the state law adviser. It is understood public hearings will be held on the bills after the parliamentary recess near the end of July.

# Cutting the mustard at the top

The right colour is not enough in the search for the right person. CHRIS BARRON reports on the requirements for a high-flier in today's corporate environment

(176)

21 198

**A** FIRMATIVE action is a luxury South Africa cannot afford, at least when it comes to appointing the highest of high-fliers.

This seems to be the lesson that Transnet boss Saki Macozoma has learnt the hard way, with the appointment this week of Coleman Andrews from the US to head SA Airways.

Not long ago Macozoma's lyrical comments about affirmative action seemed to leave little room for senior appointments based solely on skill and international expertise.

Then came Zudle Nomvele, who was so clearly out of his depth as SAA executive director that he was removed from his post and given a position more realistically attuned to his talents.

Commenting on the appointment of Andrews, who in addition to being a thorough South African is also white, Macozoma de-nied this was a vote of no confidence in affirmative action.

But, he said, SAA was in a globally competitive industry and it needs, urgently, leadership and management that can steer it in these troubled times.

Unfortunately, Andrews' appointment does not necessarily presage an influx of international skills in to other parastatals, as the SABC's election of the Rev Hani Mbatia as its chief executive starkly illustrates.

An Andrews-type executive would have had far more to offer, not least in training locals to run the corporation a few years down the line.

In fact, even Andrews was brought in only as a kind of interim manager to prepare SAA for privatisation. In four years or so, he will be off. Apart from multinationals like BMW,

dimension cannot be overstated. Telkom has already felt the benefits of Mac Geschwind, brought in as chief operating officer a year ago by equity partner SBC, a US telecoms company.

His international perspective has led to a more communicative and open corporate culture than ever before, a keener focus on customer care, the introduction of state-of-the-art technology and a centralised procurement process. These are precisely the areas Andrews began focusing on almost before his feet touched the ground at SAA.

Few people dispute the management skills of outgoing SAA chief executive Mike Myburgh. But to be competitive, these skills are no longer enough.

"Myburgh is very capable and knowledgeable," said Wilkinson. "But he had no international business experience. He came up through the railways. The international air travel business is a global business, and executives must have international exposure."

For at least a decade, said Andrews this week, there had been a realisation in the US that to be globally competitive the international element was "not only desirable but necessary".

Wilkinson predicts "a lot more international business people will take up positions here".

Executive recruitment agencies warn, however, how difficult it is to attract them.

Crime is a major obstacle, as is the perception that good schooling and health care are no longer available.

Hutton-Wilson says salaries in South Africa are not seen as competitive for top executives earning around \$300 000 a year (about R2 750 million).



**BENEFITS:** Mac Geschwind, earning his keep at Telkom



**IMPORT:** Coleman Andrews, the new chief executive of SA Airways, who says that the international element is necessary

Picture: JON HRUSA

requirements

today's corporations

(176)

**A**FFIRMATIVE action is a lesson South Africa cannot afford, at least when it comes to appointing the highest of high-fliers.

This seems to be the lesson Transnet boss Saki Macozoma learnt the hard way, with the appointment this week of Coleman Andrews from the US to head SA Airways.

Not long ago Macozoma's lyrical comments about affirmative action seemed to leave little room for senior appointments based solely on skill and international expertise.

Then came Zukile Nomvete, who fell so clearly out of his depth as SAA executive director that he was removed from his post and given a position more realistically attuned to his talents.

Commenting on the appointment of Andrews, who in addition to being a non-South African is also white, Macozoma denied this was a vote of no confidence in affirmative action.

But, he said, SAA was in a globally competitive industry and "it needs, urgently, leadership and management that can steer it in these troubled times".

Unfortunately, Andrews's appointment does not necessarily presage an influx of international skills into other parastatals, as the SABC's election of the Rev Hawu Mbatha as its chief executive starkly illustrates. An Andrews-type executive would have had far more to offer, not least in training locals to run the corporation a few years down the line.

In fact, even Andrews was brought in only as a kind of interim manager to prepare SAA for privatisation. In four years or so, he will be off.

Apart from multinationals like BMW, Volkswagen and IBM, which have a tradition of posting their own executives to foreign countries, the number of top executives lured from overseas to give us the creative edge are few. We are a long way behind countries like Australia, where around 20 percent of the top 100 companies are run by foreigners.

This is because we've relied on the astonishing number of top managers produced locally, partly because our pariah status until 1994 made an SA posting akin to being despatched to Siberia for most foreign executives. It is also because we took a long time to cotton on to the trend of using outsiders to add an international dimension.

"There are not many businessmen in South Africa with genuine international experience," said the executive director of the Institute of Directors, Richard Wilkinson, this week.

The importance of the international

# not convinced



**BENEFITS:** Mac Geschwind, earning his keep at Telkom

"Myburgh is very capable and knowledgeable," said Wilkinson. "But he had no international business experience. He came up through the railways. The international air travel business is a global business, and executives must have international exposure."

For at least a decade, said Andrews this week, there had been a realisation in the US that to be globally competitive the international element was "not only desirable but necessary".

Wilkinson predicts "a lot more international business people will take up positions here".

Executive recruitment agencies warn, however, how difficult it is to attract them.

Crime is a major obstacle, as is the perception that good schooling and health care are no longer available.

Hutton-Wilson says salaries in South Africa are not seen as competitive for top executives earning around £300 000 a year (about R2,7-million).

Another factor inhibiting the flow of outsiders into local management is affirmative action. For companies which have not been practising it of their own volition, the soon-to-be-passed Employment Equity Bill provides for stiff penalties as an incentive.

Meanwhile, there is a mind-set that still needs to be overcome in South Africa, and this is the belief that recruiting top executives from outside reflects poorly on this country and its ability to generate its own skilled people.

In fact, South Africa has produced many such people, and for many years they have been eagerly sought by other countries. They include Michael Edwardes, who was recruited to run British Leyland, and Stephen Mulholland, who was head-hunted to run the Fairfax publishing empire in Australia.

● See page 10 of Business Times

## New minister to focus on affirmative action laws

(176)  
BY HOPEWELL RADEBE

Political Reporter

Star 6/7/98  
The incoming labour minister, ANC MP Shepherd Mdladlana, is determined to "cure" business of its "reluctance to implement affirmative action".

Mdladlana, a founder member of the South African Democratic Teachers' Union and an ANC MP and deputy chairman of Parliament's portfolio committee on education, steps into Tito Mboweni's shoes on July 18.

Mdladlana acknowledged that his job would not be easy even though Mboweni has already steered the bulk of the Government's labour reform legislation through Parliament.

"The greatest challenge will be the implementation of these perfect labour laws.

"Mboweni has laid a strong foundation, and implementation will be testing ... one would have to force South African business to change negative attitudes towards the new laws, especially the Employment Equity Bill," he said yesterday.

Mdladlana said he would engage business, labour and interested parties. But he would not compromise on the ANC's objective of ensuring that political changes addressed the plight of victims of apartheid.

SACP member of the central committee Essop Pahad has welcomed Mdladlana's appointment, saying President Nelson Mandela "has gone beyond the norm of appointing well-known politicians" to the Cabinet.

"He (Mdladlana) has a wealth of negotiating experience and a deep understanding of labour issues," said Pahad.

# Coloureds and Indians caught between a rock and hard place

## Affirmative action policies under fire

ARL 11/7/98 (176)

CLAUDIA MPETLA

**N**ot white enough, not black enough: that is the lament increasingly being heard in Indian and coloured communities on the issue of affirmative action.

The highly publicised case of Govin Reddy, who accused the SABC of racism when he was passed over for the post of chief executive, has once again highlighted the problems faced by the two communities in the workplace.

And there are other examples cited by the communities to make their point.

Mohamed Faizel, 39, moved from Kwazulu Natal to Johannesburg about a year ago to seek better job opportunities as a computer programmer.

Although he already held a good position at a Midrand company, he was excited when he saw an advertisement for a programming post at a financial institution.

"It was a job that I was more than qualified for. I have operational and programming skills and I knew that I would be perfect

It is the poor and oppressed, regardless of colour, who need to be affirmed.

"Once you have the candidates, you choose the best person for the job. I have no problem if a white person from a poor background gets a job, if that person is best skilled for that job."

Mr Alexander said the private sector and some political parties were unashamedly using affirmative action to manipulate workers and pay lower salaries.

"If the Government does not address the issue of affirmative action, then the dissatisfaction expressed by these groups will become a serious problem," he warned.

In a recent case brought before the Durban Coastal Local Court, the judge ruled that because Indians had been less disadvantaged in the past, it was justifiable for Natal University to restrict the number of Indian students and give preference to Africans.

The plaintiff was an Indian student who was refused entry to medical school because the quota of Indian students had already been filled.

According to Karthi Govan-

a marriage. Once you're married the focus is less on the individuals and more on the unit. If either partner fails to assert him or herself, then the other will dominate.

"Being in a marriage doesn't mean you lose your identity. Equally, we need to recognise ourselves as a specific interest group with a particular history, but that we are part of a bigger whole.

"Communities need to organise themselves into groupings that are inclusive and have the goal of developing enough clout to position themselves in the broader South Africa as it moves towards a non-racial society."

Robert Hill of Kibler Park, who works as an information security manager, says affirmative action is necessary. He says the problem lies with individuals who take it out of context.

"If you look at the dynamics of our country, there is a larger African component - that's the reality. It makes sense then that preference be given to Africans. Other groups shouldn't take it personally or feel that they are being marginalised.

"It's true that under the old government us coloureds didn't feel the full impact of

**I have no problem if a poor white**



In the workplace.

And there are other examples cited by the communities to make their point.

Mohamed Falzel, 33, moved from KwaZulu-Natal to Johannesburg about a year ago to seek better job opportunities as a computer programmer.

Although he already held a good position at a Midrand company, he was excited when he saw an advertisement for a programming post at a financial institution.

"It was a job that I was more than qualified for. I have operational and programming skills and I knew that I would be perfect for the job," he explains.

"In the first interview the panel was so impressed with the skills I had to offer we started discussing the plans the company had for the next few years and how my experience could help them achieve their goals.

"They even went so far as to tell me who I would be reporting to and who would be working under me. I left the interview feeling confident that I had the edge.

"The agency I had been working through called me to arrange a date for a second interview, but before I could organise my schedule, they called to say, 'Sorry you are no longer being considered for the position because it's an affirmative action post'.

"I was very disappointed because I thought affirmative action included me."

Neville Alexander, a far-left politician and academic, argues that the focus of affirmative action should be oppression rather than race.

"The Government is serious about affirmative action and redressing the imbalances of the past, but in practice it has boiled down largely to benefiting black people, and by that I mean anyone who is not white middle-class.

"The problem with affirmative action is that it is being treated as a race issue. The Government needs to take a firm stand that

issue of affirmative action, which are the satisfaction expressed by these groups will become a serious problem," he warned.

In a recent case brought before the Durban Coastal Local Court, the judge ruled that because Indians had been less disadvantaged in the past, it was justifiable for Natal University to restrict the number of Indian students and give preference to Africans.

The plaintiff was an Indian student who was refused entry to a medical school because the quota of Indian students had already been filled.

According to Karthi Gounder, from the university's law department, courts need to be more exacting when making judgments like these.

"When an institution puts the rights of a group that was previously disadvantaged above those of another disadvantaged group, the onus needs to be on that institution to prove that the decision was made through scientific analysis.

"In this case, the university should have asked questions like: are there Indian students who come from poor backgrounds, does the university's medical school serve the entire South Africa or the region, and does the community need more African or Indian doctors?"

In areas such as the Western Cape, with its coloured majority, there has been speculation that coloureds have been marginalised in the job market to punish them for voting for the National Party.

But according to South Africa's ambassador to the United States, Franklin Sonn, much of the fault for being marginalised lies with these different interest groups themselves.

"The name of the game is negotiating and fighting for yourself. If the coloured community feel that they are being sidelined, it's because they are not affirming themselves. The best analogy I can use is that of

South Africa as it moves towards a non-racial society."

Robert Hill of Kibler Park, who works as an information security manager, says affirmative action is necessary. He says the problem lies with individuals who take it out of context.

"If you look at the dynamics of our country, there is a larger African component - that's the reality. It makes sense then that preference be given to Africans. Other groups shouldn't take it personally or feel that they are being marginalised.

"It's true that under the old government us coloureds didn't feel the full impact of apartheid.

"If you look at the squatter camps, it's predominantly Africans who are living under those conditions.

"We are still in a period of transition and we must be prepared to sacrifice a little bit."

When parliamentarians return from their winter break in two weeks, they will discuss the recently introduced Employment Equity Bill.

The first part of the bill prohibits discrimination in employment and the second introduces affirmative action programmes to deal with apartheid-linked discrimination.

The National Assembly will hold public hearings on the bill on July 21 and 22.

"While coloureds and Indians were preferred when it came to jobs by the old government, there was also a glass ceiling in terms of how far up in the company they could go," says Loyiso Mbabane, director of Equal Opportunities in the Department of Labour.

"But what these groups need to realise is that in some sectors, Indians and coloureds are over-represented and this is where we need to balance things out.

"It is the same with African males. There are industries where they are over-represented.

"The Government is very, very serious about developing and advancing all interest groups and that is what the Employment Equity Bill is hoping to correct."

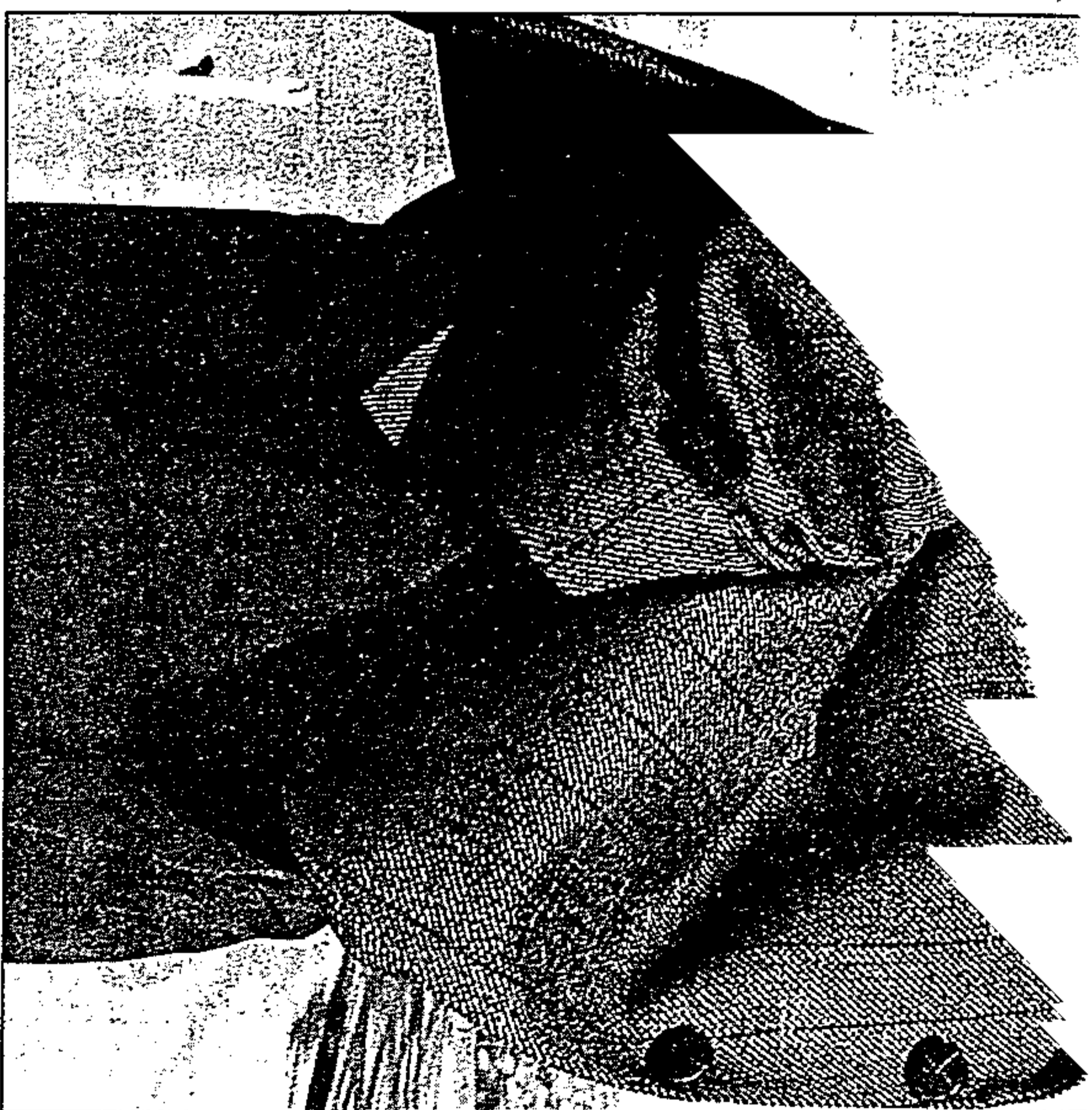
**I have no problem if a poor white person gets the job, if that person is the most skilled for that job'**

## Some facts concerning the Employment Equity Bill

- The bill does not require a fixed quota of employees for each race.
- It limits the scope of affirmative action to "designated groups" - blacks, women and people with disabilities.
- Black is defined as including Africans, coloureds and Indians.
- Employers are not required to

- appoint anyone who is not suitably qualified.
- Each workplace does not have to reflect national demographics.
- When setting targets, the following factors need to be considered:
  - The pool of suitably qualified people from designated groups.

- Regional demographics, economic and financial factors relevant to the business sector.
- And the financial circumstances of the employer.
- Businesses with fewer than 49 employees are exempt from producing employment equity plans.



GOVIN REDDY: 'going ahead with legal action'



# Job equity bill hits early obstacle

May 20/7/98

PARLIAMENTARY BUREAU

The Government's showpiece affirmative action measure, the Employment Equity Bill, has struck an early obstacle in Parliament, with organised business claiming that a new draft did not reflect concessions it had won during negotiations.

Parliament is set to pass the bill before the end of the year. It will compel firms with an annual turnover exceeding R10-million to set aside a quota of jobs for members of previously disadvantaged communities.

Yesterday, at the first of two days of hearings in Parliament, business said an earlier agreement reached at the National Economic Development and Labour Council stipulated that only "suitably qualified" employees should be considered for a job. The new draft provided that a person have "the capacity to acquire the ability to do the job".

Vic van Vuuren of Nedlac said on behalf of Business South Africa (BSA): "It is practically impossible to determine whether a person will at some time in the future acquire the ability to do the job. This will

result in an obligation to persons who are not in fact suitably qualified."

"Employers would not only be unable to appoint the best person for the job but might have to appoint persons whose ability to perform a particular job is at best suspect."

The new definition would lead to "compulsory tokenism", he said.

The National Federated Chamber of Commerce, representing black employers, welcomed the bill and dismissed BSA's objections.

See Business Report

# Mangope found guilty of royalties theft

Former Bophuthatswana president Lucas Mangope (74) was yesterday found guilty by the Mmabatho High Court on 88 counts of theft amounting to R2,62-million.

Judge Tom Mullins said Mangope had during the period 1979 to 1994 misused the position of trust bestowed upon him by the Bahurutshe-Bo-Manyane tribe and used money belonging to them for personal ends including farming and overseas trips.

The court found that Mangope was aware that royalties

he received from Marico Chrome Mines did not belong to him but he continued to bank it in his personal accounts.

Mangope never informed the tribe of his dealings with the mines.

It took him 14 years to disclose that he was receiving royalties on behalf of the tribe, probably because he knew his reign was ending, Judge Mullins said.

He added that during that period, Mangope's impoverished tribe suffered much.

Own Correspondent



Guilty ... Lucas Mangope

May 22/7/98

D10

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# Bill 'no return to apartheid'

(176)  
Soulman 22/7/98

TO argue that with the Employment Equity Bill the Government is reintroducing apartheid racial classifications is incorrect and mischievous, Labour Minister Mr Shepherd Mdladlana said yesterday.

It was extremely narrow and simplistic to say that because people in the apartheid era were classified as blacks and whites, they could not be classified as such under the new dispensation.

"The argument presupposes that it is the means that were unacceptable, rather than the end or purpose of the classification," Mdladlana said in his first media conference since being appointed labour minister last week.

Mdladlana said if the argument was followed to its logical conclusion, no effective policies would be developed to redress the terrible effects of apartheid.

"We would not develop any policies to deal with malnutrition, which is prevalent among certain communities and not others, and there is a strong correlation, not unexpectedly, with race," said Mdladlana.

"We would not be able to address the housing shortage, which primarily affects blacks most."

He said that if the government was to stay away from dealing with the real gender and racial disparities, and

addressing them as such, it would not be able to reverse the harm brought about by apartheid.

"Perhaps this is what the opponents of racial and gender classification want: the perpetuation of these disparities," he said.

While the Bill sought to bring about the equitable representation of blacks, women and disabled people across all levels and occupations in the workplace, attainment of this would not be immediate.

He said it was misleading to suggest that the Bill required employers to have a profile, at all levels, that was 75 percent black, 52 percent female and five percent disabled.

"This would be a quota system which we have avoided after careful consideration."

Mdladlana said he was meeting a business delegation yesterday, followed by the Congress of South African Trade Union (Cosatu) leadership also yesterday, to address some of the outstanding matters on the Bill.

He would also soon be convening a meeting of the leadership of the National Economic, Development and Labour Council to iron out some of the concerns raised during the hearings on the bill. — Sapa.

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# Mdladlana defends work equity bill

CT (MR) 22/7/98 (176) (H)

**FRANK NXUMALO**

LABOUR EDITOR

Johannesburg—The intention of the Employment Equity Bill was not to reintroduce apartheid-style racial classification, Shepherd Mdladlana, the minister of labour, said yesterday.

Mdladlana said its was "extremely narrow and simplistic" to argue that, because people in the apartheid era were classified as blacks and whites, they could not be classified as such in the new South Africa.

"It is incorrectly and mischievously argued that, through this bill, we are bringing back

apartheid classification; this argument presupposes that it is the means that were unacceptable rather than the end or purpose of the classification.

"In fact, if we were to stay away from dealing with the real gender and racial disparities and addressing them as such, we would not be able to reverse the harm brought by apartheid. Perhaps this is what the opponents of racial and gender classification want—the perpetuation of these disparities," Mdladlana said.

The minister said two key areas of difference between the social partners were registered in the Nedlac report on the bill.

These were labour's concern about "the apartheid wage gap" and Business South Africa's concern about the bill's definition of "suitably qualified" worker.

The minister said the denial of entry to some blacks and women into certain trades and occupations, and the grading system were being used to maintain this divide.

The minister said government drafters, acting within their Nedlac mandate and after extensive consultations with experts, now defined "suitably qualified" in the bill in a way that recognised that many people had the "potential to do many jobs".

# Labour equity discussions

NEW Labour Minister Shepherd Mdladlana sharply rejected accusations that the new labour equity bill would introduce reverse discrimination saying this argument, if followed to its logical conclusion, would prevent the government from redressing past inequities.

Mdladlana also said that companies with a turnover of R10 million would also be subject to provisions of the bill even if they did not have more than 50 employees.

He said he had had informal talks with business yesterday in an attempt to resolve crucial differences about the legislation raised at parliamentary hearings. He would also meet with Cosatu today and would soon meet with the leaders of the National Economic, Devel-

opment and Labour Council (Nedlac) to resolve concerns raised during the hearings.

It was simplistic to say that because people in the apartheid era were classified as blacks and whites, they could not be classified as such under the new democratic dispensation, he said.

"The argument pre-supposes that it is the means that were unacceptable, rather than the end.

"If this argument were followed to its conclusion no effective policies would be developed to address the terrible effects of apartheid.

"Perhaps this is what the opponents of racial and gender classification want — the perpetuation of these disparities," he said. — Parliamentary Bureau

CT 22/7/98

(176) (11)

# Bill 'deviates' from Nedlac agreements

CT 22/7/98

ANDRE KOOPMAN  
PARLIAMENTARY BUREAU

(176)

(176)

THE Employment Equity bill, aimed at introducing affirmative action in the labour market, differed in "critical" areas from agreements between employers, government and unions thrashed out at the National Economic Development and Labour Council (Nedlac), according to Business South Africa (BSA).

This was said by Vic van Vuuren, business convener in Nedlac's labour market while making a submission on behalf of BSA during hearings on the legislation.

The National African Chamber of Commerce gave unreserved support to the bill as a measure to address inequities of the past in the face of strident opposition from BSA and Tony Leon of the DP.

Van Vuuren said while BSA supports elimination of unfair discrimination, the bill tabled deviates in "critical respects" from agreements reached at Nedlac.

Despite agreement on employees "suitably qualified" for a job — which was a significant compromise for employers — the terminology had been amended. Whereas before, suitable qualification had referred to the person's formal qualifications, prior learning experience and relevant experience, the provision had been changed to include "the capacity to acquire the ability to do the job".

"It is practically impossible to determine whether a person will at some time in the future acquire the ability to do the job. This will result in an obligation to persons who are not, in fact, suitably qualified," Van Vuuren said.

The definition had been altered in a way that would lead to "compulsory tokenism and impose unrealistically onerous obligations on employers, with potentially devastating consequences for individuals and the economy".

Amendments to the bill, which increased its scope to include com-

panies with a turnover of more than R10 million a year, would "act as a disincentive to small entrepreneurs who are creators of jobs". Previously the bill would only have applied to companies employing 50 and more people.

The bill made provision for punitive measures to be imposed on companies contravening the law, while it was agreed at the Nedlac negotiations that this provision would be scrapped subject to legal advice being obtained, he added.

The National Federated Chamber of Commerce (Nafcoc), representing black employers, welcomed the bill.

Aubrey Tshalata of Nafcoc, in welcoming punitive measures contained in the bill, said the existence of an effective punitive mechanism would be a strong deterrent to undesirable behaviour. The bill adopted a carrot-and-stick approach in terms of which companies complying with it would be eligible for state contracts worth some R56 billion annually. Responding to criticism about the effects of the bill on small business, he said that SA tended to have smaller businesses which are "among the worst when it comes to labour relations and the general conditions of employment".

"To us the real challenge is how to ensure that every employer has equal opportunities in the workplace and suffers no unfair discrimination rather than the opposite, of trying to leave as many employees as possible at the mercy of discriminating employers."

Nick Segal, BSA's deputy chairperson, said that the labour department had not yet responded to the claims, and that the draft legislation was out of line with the Nedlac agreement because relevant officials had been out of the country.

New Labour Minister Shepherd Mdladlana said that he was unable to comment on the matter, since he had not been updated on the latest developments.

# Small companies face

## Shock over new draft

THABO MBABASO  
BUSINESS REPORTER

FR APR 22 1976 176

Companies with less than 50 employees will no longer be excluded from the Employment Equity Bill if the bill is passed by Parliament in its new draft.

The bill's original draft excluded such companies from compiling affirmative action plans.

But the new draft includes all companies whose annual turnover exceeds R10-million.

Department of Labour director for employment equity Loyiso Mbabane told Parliament's labour portfolio committee yesterday that the small companies issue had been hotly debated at the National Economic Development and Labour Council (Nedlac).

"If you have a turnover that is above that of a small business, then

you cannot claim to be a small business," Mr Mbabane told the portfolio committee, which is holding two-day public submissions on the bill.

The inclusion of the turnover aspect in the employment equity bill follows concerns among trade unions that companies would try to keep their workforce below 50 in order to escape harsh punitive fines imposed against employers who do not heed the bill's provisions.

Newly appointed Labour Minister Shepherd Mdladlana told a news conference yesterday that substantial progress had been made at Nedlac in negotiations on the bill.

Some problems which had arisen earlier had been the result of misunderstandings or misreadings of the bill, he said.

Mr Mdladlana met business and labour representatives last night to discuss their concerns about the bill.

# Equity bill will put the brakes on job creation, says Suzman

ARGUS CORRESPONDENT

Helen Suzman, a member of the Human Rights Commission, has distanced herself from HRC support for the Government's showpiece affirmative action measure, the Employment Equity Bill.

Mrs Suzman said in a statement today that the bill was counter-productive to South Africa's priority need, which was to provide jobs for millions of people.

"It will inhibit the expansion of existing enterprises and will discourage new investment from local and foreign sources," she said.

"It introduces an inflexible labour policy based on race. It will encourage further emigration of skilled white males whose expertise is required for economic growth," added Mrs Suzman.

She said the bill would be impossible to implement because of the supply problem. "There simply are not enough

available people to meet the racial targets laid down within the suggested time frame as far as skilled, professional and qualified people are concerned."

The bill will compel companies with an annual turnover of R10-million or more to set aside a quota of jobs for members of previously disadvantaged groups.

Yesterday, at the first of two hearings in Parliament, Business South Africa said an earlier agreement reached at the National Economic Development and Labour Council had stipulated that only people "suitably qualified" for a particular job should be considered under the proposed legislation.

But the new draft provided simply that a person have "the capacity to acquire the ability to do the job".

Business South Africa said the new definition would lead to compulsory tokenism. The National Federated Chamber of Commerce, representing black employers, welcomed the bill.

# Govt stung by 'bad faith' allegations

BO 27/7/98

(176)

Vuyo Mvoko

CAPE TOWN — Government was taking "very seriously" Business SA's (BSA's) "questioning of our integrity" after the body alleged on Tuesday that key aspects of the latest draft of the Employment Equity Bill did not accurately reflect positions agreed to at the National Economic, Development and Labour Council (Nedlac), labour director-general Siphon Pityana said yesterday.

Pityana said labour minister Shepherd Mdladlana and departmental senior officials met separately with members of BSA and the Congress of SA Trade Unions (Cosatu) on Tuesday, soon after BSA had made its allegations. BSA representative Vic van Vuuren had said government had gone way beyond what was agreed

upon. Pityana said government had made clear, "in no uncertain terms", its unhappiness about BSA's contentious input when the two parties met late on Tuesday.

"They (BSA) insisted they were not questioning the integrity of government. We told them the implications of what they were saying were exactly that."

Van Vuuren said that at the meeting "we explained to the minister our arguments and why we raised them. We did not debate the issues."

He said he had been contacted by an official of the department yesterday: "We are on standby to join any process. We've put our suggestions."

A meeting would be held before Tuesday between business, labour, the Black Management Forum and community groupings

where pertinent issues and other concerns would be dealt with, before the minister makes a decision on possible amendments.

Pityana would issue "a comprehensive response" next Tuesday to, among other things, BSA's specific concerns and those raised by Cosatu about the treatment of the wage gap in the bill.

Cosatu said yesterday it remained convinced that sections of the bill relevant to the wage gap "fail dismally" to address the closing of the gap between management and low-paid workers in SA.

Cosatu general-secretary Mbazima Shilowa said he dismissed BSA's contention that the drafters of the bill in its latest form had not accurately reflected what was agreed upon.

Comment: Page 15

# Nedlac to mediate in row over equity bill

BY ~~CEOLIA~~ (176) ~~RUSSELL~~ AND SAPA *SPW 27/7/98*

The row between sectors of business and the Congress of South African Trade Unions over the Employment Equity Bill is continuing unabated amid claims that drafters of the legislation have changed measures previously agreed to.

The National Economic Development and Labour Council (Nedlac) said the organisation would be involved in clearing up the disagreements about the Government's showpiece affirmative action bill, which emerged during public hearings this week.

The bill aims to eliminate disparities in the labour market by compelling employers to diversify their workforce by employing blacks, women and the disabled across the business spectrum.

Nedlac executive director Jayendra Naidoo said: "Having seen the draft, a case could be made that the bill does not reflect the agreements made."

Nedlac would be getting together with business, the Government and labour to discuss this issue and ensure that the agreements were fairly reflected in the draft legislation.

Human Rights Commission commissioner Helen Suzman also distanced herself from the bill, saying it "introduces an inflexible labour policy based on race".

But the bill received the green light from black business, labour and human rights organisations.

Cosatu secretary-general Mbhazima Shilowa said yesterday that the bill tabled in Parliament last month was in line with an agreement on affirmative action legislation reached in Nedlac.

On Tuesday, Business South Africa argued that the drafters of the bill had materially changed the measures agreed to in the consensus-making body by business, labour and the Government.



# Bill 'in line with affirmative action'

*(176) Journal 23/7/98*

THE Employment Equity Bill tabled in Parliament last month is in line with the agreement on the affirmative action legislation reached in the National Economic Development and Labour Council (Nedlac), the Congress of South African Trade Unions said yesterday.

On Tuesday Business South Africa argued that the drafters of the Bill had materially changed the measures agreed to by business, labour and government in the consensus-making body.

However, Cosatu general secretary Mbhazima Shilowa said on Wednesday that the Nedlac agreement was not a legal document and anyone who wanted to raise objections to the way the legislation was drafted was free to do so.

Parliament also did not need permission to change the Nedlac agreement.

Appearing before a National Assembly labour committee hearing on the Bill, Shilowa expressed reservations that the bill did not do enough to ensure the apartheid wage gap was closed.

Research indicated that in South Africa managing directors earned 100 times more than the lowest paid workers. In Japan this figure was seven times.

Shilowa was confident the labour federation's concerns would be accommodated and the necessary changes made to the legislation.

"We have faith in an ANC-majority Parliament's ability to take on board concerns coming from workers."

Shilowa said the bill was also "fundamentally flawed" because it failed to ensure that employers, who were part of

collective bargaining councils, but who were not covered by the legislation because they were not designated employers, complied with its measures.

The bill aims at eliminating past discrimination in the workplace, and requires companies with 50 or more employees - or whose turnover exceeds a defined limit - to draw up and implement plans for doing so.

In response to a question from Tony Leon (DP), Shilowa said he did not believe the legislation would stifle job creation or economic growth.

"All South Africans, particularly whites and the business community, must realise that their future lies in an expanded, deracialised economy."

### Structures of privilege

"People who are trying to tell others that non-racialism is to be achieved through maintaining the *status quo* and leaving the inherited structures of privilege undisturbed, are trying to block off opportunities to the majority of the people."

Shilowa said Cosatu supported the view that a lack of previous experience should not be used to discriminate against employees.

"Affirmative action should be developmental and take into account the potential of employees to acquire the requisite ability to perform the work."

Labour had reluctantly agreed in Nedlac to treat the availability of qualified people as one of the factors to be considered in evaluating an employer's progress towards employment equity, he said. - Sapa.

# Equity Bill 'won't bridge wage gap'

*Southern 23/7/98*

*(106) (176)*

By Ido Lekota

**T**HE Congress of South African Trade Unions told Parliament yesterday that the Employment Equity Bill in its current form would not redress the current huge wage gap between ordinary workers and management which was a direct result of apartheid.

Cosatu general secretary Mr Sam Shilowa said the Bill focused narrowly on wage discrimination among those doing similar work.

Shilowa said it did not "address the massive gaps between the various strata of the work force, between management and lowly-paid workers, men and women, black and white, blue collar and white collar".

The Bill should not be confined to achieving "a degree of horizon-

tal equity where there is a racial and gender representativity within a particular stratum of the labour market, while there continues to be a huge vertical inequity between those at the bottom and those at the top".

Research conducted this month under the supervision of the University of the Witwatersrand's management faculty found that 10,65 percent of companies surveyed conducted HIV tests on prospective employees, and that 59,4 percent of these companies believed this was appropriate in the employment context.

This was disclosed yesterday by the Aids Law Project at a hearing on the Bill, conducted by the National Assembly's labour committee.

Job applicants and employees with HIV or Aids were often per-

ceived to be disabled or unproductive.

The Southern African Catholic Bishops' Conference (SACBC) yesterday welcomed the Bill, aimed at compelling companies with 50 employees or more, or whose turnover exceeds defined limits, to draw up and implement affirmative action plans.

The Bill was "a significant and well-thought-out attempt" to deal with the imbalances and injustices of the past, the SACBC said in a submission to the National Assembly's labour committee, which is holding two days of public hearings on the Bill.

Shilowa also said the Bill was in line with an agreement on affirmative action legislation reached in the National Economic Development and Labour Council (Nedlac).

# Jobs bill in line with affirmative action deal, says Cosatu

(176) ~~176~~ et 23/7/88

**LEGISLATION AIMED AT** eliminating discrimination in the workplace did not go far enough to close the apartheid wage gap, Cosatu leader Mkhazima Shilowa said yesterday.

**THE** Employment Equity Bill tabled in Parliament last month was in line with an agreement on affirmative action legislation reached in the National Economic Development and Labour Council (Nedlac), Congress of South African Trade Unions (Cosatu) general secretary Mkhazima Shilowa said yesterday.

On Tuesday, Business South Africa argued that the drafters of the bill had materially changed the measures agreed to in the consensus-making body by business, labour and government.

Shilowa said the Nedlac agreement was not a legal document and anyone who wanted to raise objections to the way the legislation was drafted was free to do so. Parliament also did not need per-

mitted to change the Nedlac agreement.

Appearing before a National Assembly labour committee hearing on the bill, Shilowa expressed reservations that the bill did not do enough to ensure the apartheid wage gap was closed.

The bill aims at eliminating past discrimination in the workplace, and requires companies with 50 or more employees — or whose turnover exceeds a defined limit — to draw up and implement plans for doing so.

Mark Heywood, head of the Aids Law Project, told the committee that research conducted this month under supervision of the University of the Witwatersrand's management faculty had found that 10,65% of companies sur-

veyed conducted HIV tests on prospective employees, and 59,4% of those companies believed this was appropriate in the employment context.

Heywood said HIV infection rates among the workforce topped 25% in some provinces, and because the problem was not being dealt with it would remain a feature of the labour market for some time.

The bill did not go far enough to protect Aids sufferers or people with HIV, Heywood said.

The Southern African Catholic Bishops' Conference (SACBC) welcomed the bill, saying it was "a significant and well thought-out attempt" to deal with the imbalances and injustices of the past.

However, the SACBC urged that the definition of people with disabilities, who are among those who will benefit from the legislation, be broadened to include those people who are HIV positive or are suffering from Aids.

The Human Rights Research and Advocacy Project, an initiative of the National Association of Democratic Lawyers, also welcomed the bill, but called for some aspects of it to be strengthened.

It was disappointing that the issues of poverty and the apartheid wage gap between highly and lowly-paid workers was not addressed in the bill, project spokesperson Bonnie Berkowitz said.

The National Assembly's welfare committee also held public hearings yesterday on the welfare implications of the bill, and were addressed by representatives of the National Coalition for Gay and Lesbian Equality as well as the Aids Legal Network.

The presenters appealed for the inclusion of people with HIV or Aids in the definition of people with disabilities for the purposes of non-discrimination in employ-

## THE CRIMES AND PUNISHMENTS OF THE EQUITY BILL



### ITS AIMS

■ To eliminate unfair discrimination by compelling business to diversify its workforce and employ more blacks, women and disabled people across the spectrum of businesses.

### WHO IT AFFECTS

■ Companies with more than 50 employees.  
■ Companies with fewer than 50 employees with an annual turnover of more than R10 million.

### THE 6 CONTRAVENTIONS

**Employers must:**

- Consult with trade unions or employees to reflect the interests of all occupational categories: blacks, women, disabled employees, as well as others.
- Collect information and analyse its policy, procedures and practices and identify barriers which adversely affect blacks, women and disabled workers (including a profile of the workforce to determine the degree of under-representation of these groups).
- Prepare and implement an employment equity plan.
- Report to the director-general within a specified time.
- Publish a summary of the report in the annual report or in the case of government departments a report must be tabled in Parliament.
- Prepare a subsequent employment equity plan before the end of the term of its current employment equity plan.

### THE PENALTIES

THE PENALTIES	Maximum fine
■ No previous contravention.	R500 000
■ Second contravention for the same offence.	R600 000
■ A previous contravention within the previous 12 months or two previous contraventions in respect of the same provision within three years.	R700 000
■ Three previous contraventions in respect of the same provision within three years.	R800 000
■ Four previous contraventions in respect of the same provision within three years.	R900 000

ment, but not in the affirmative action measures.

National Party said it supported the main principles of the bill, but the party rejected any form of discrim-

nation it contained. The current deviation from the agreement reached at Nedlac was totally unac-

ceptable and the party would not support the bill, the statement said. — Sapa

# Business accused of hidden agenda

FRANK NXUMALO

LABOUR EDITOR

Johannesburg — The argument put forward by Business South Africa (BSA) that the Employment Equity Bill would lead to the destruction of jobs masked its opposition to the transformation of the labour market, Cosatu said yesterday.

Mbhezima Shilowa, the secretary-general of Cosatu, said the bill was in line with an agreement on affirmative action legislation reached in Nedlac.

BSA argued on Tuesday that the bill's drafters had materially changed the measures agreed to by business, labour and the government at Nedlac.

Jayendra Naidoo, Nedlac's executive director, said the

issue would be dealt with before the organisation's next executive committee meeting.

It was unfortunate that BSA had not raised its objections before it appeared in front of the national assembly's labour committee hearing on the bill. He believed BSA's objections could be based on necessary changes the legislative drafters would need to make to any document being transformed into law.

Shilowa told the committee the Nedlac report was not a legally binding document and that neither the department of labour nor parliament needed BSA's agreement to change it.

He said: "Business employs scare tactics by arguing that the bill will lead to job losses, as employers will be forced to

mechanise and discourage investment, especially foreign investment.

"This has become a swan song of the business community, masking their opposition to the transformation of the labour market."

Shilowa said there could never be a "combined view" between the government and BSA on the "apartheid wage gap", one of the two areas of disagreement in the Nedlac report. The other disputed area is the definition of "suitably qualified".

He said it was a fallacy to argue that racist imbalances wrought by the National Party in the workplace under apartheid could be rectified by market forces alone.

ET(BR) 23/7/98

# Era of old school tie drawing to an end



(176)

# CT 23/7/98

**CECILIA RUSSELL**

THE era of the old school tie will soon be over following the government's tabling of the Employment Equity Bill, which aims to eliminate disparities in the labour market by compelling employers to diversify their workforce by employing blacks, women and the disabled across the business spectrum.

But what exactly does the bill entail?

Most organisations have welcomed the first section of the bill, which entrenches the right to fair and equitable treatment of employees by compelling employers to address wage differentials through collective and other bargaining, and by prohibiting medical testing of employees and psychometric testing.

The employer is obligated to consult on an "employment equity plan", is required to analyse the company and identify employment barriers which hamper the "designated employees", must assess the level of under-representation of

people in this category and must prepare an employment equity plan that includes the affirmative action measures to be implemented.

The bill lays down that people are suitably qualified for a job on their formal qualifications, prior learning, relevant experience or because they have the capacity to "acquire within a reasonable time the ability required to do the job".

Annual reports are to be sent to the director general.

Employers must also assign a senior manager to monitor the employment equity plan.

The quotas are based on the demographic profile of the economically active population, the pool of suitably qualified people an employer may reasonably be expected to promote or appoint and on economic and financial factors.

The legislation provides for the setting up of a commission for employment equity.

The Department of Labour intends to

enforce this through a system of labour inspectors, through keeping a register of "designated employers" and a review by the director general.

The Labour Court can order an employer to comply with the act and impose fines should certain sections of the act be contravened.

If the court finds that an employer unfairly discriminated against any employee, the court can order that compensation and punitive damages be paid.

A human resources practitioner, who did not want to be named, said that because the bill forced employers to examine their employment practice, it would result in the breakdown of old and "discriminatory practices".

"The era of the old school tie is over," she said.

A weakness was that the bill was silent on "unwritten policy" which often determined the culture of the organisation, which might not correspond with the spirit of the draft legislation.

# Cosatu stirs up new row over jobs equality bill

(176) (176)  
BUSINESS EDITOR  
AUG 23/7/98

A new row is brewing over the Employment Equity Bill, with the Congress of SA Trade Unions urging that the bill be used as a mechanism to close the wage gap.

In submissions to Parliament's portfolio committee on labour, which is debating the bill this week, Cosatu has argued that the bill in its present form "fails dismally" to tackle the wage gaps which developed under apartheid.

Quoting research showing that the average income of a managing director in South Africa is 100 times that of the lowest paid worker, compared to seven times in Japan, and that 60% of the national wage bill goes to white collar workers and management, Cosatu said the Employment Equity Bill should address these disparities.

This is likely to further irritate the business lobby, which is already unhappy about some of the clauses in the existing bill.

Cosatu said the argument put forward by Business South Africa that the bill would lead to the destruction of jobs masked its opposition to the transformation of the labour market:

"The issue of closing the massive gaps between the various strata of the work force, between management and low-paid workers, men and women, black and white, blue collar and white collar, needs to be a central element of any meaningful employment equity strategy in South Africa," said Cosatu.

As well as plans to make their workforce more representative of the country's population, employers should have to submit plans to the Government on how they intended to narrow wage differentials, the union federation argued.

Cosatu said companies should be obliged to:

- Supply the Minister of Labour with an "audit" of income of all layers of the workforce up to directors and management, including all perks and share options.

- Set targets for the narrowing of the gaps between different layers over specified time periods.

# Minister pushes ahead new labour bill

(986) (176)  
But business is unhappy

ARG 25/7/98  
ESTELLE RANDALL  
POLITICAL CORRESPONDENT

New Labour Minister Shepherd Mdladlana is pressing ahead with the controversial Employment Equity Bill in spite of howls of protest from the business establishment.

Mr Mdladlana said this week the bill, which aims to enforce affirmative action in the workplace, would be tabled in Parliament's National Assembly next month as scheduled.

This is in spite of protests by Business South Africa that those who drafted the bill had made substantive changes to a version agreed to in the National Economic Development and Labour Council (Nedlac).

The law obliges government, trade union and business representatives in Nedlac to try to reach consensus on proposed labour legislation before it is finalised in Parliament.

BSA was particularly concerned about the bill's definition of a "suitably qualified" job candidate.

The bill says a candidate's suitability should be based on formal qualifications, prior learning, relevant experience or the capacity to "acquire within a reasonable time the ability required to do the job".

BSA felt it was hard for employees to assess "potential".

But Nedlac's other business representative, the National African Federated Chamber of Commerce and Industry (Nafcoc) and trade union representatives - the Congress of SA Trade Unions (Cosatu) and the Federation of Unions of SA - have said the bill is in keeping with the agreement reached at Nedlac.



FIRM: Shepherd Mdladlana

Mr Mdladlana has offered to convene a meeting of Nedlac's government, business and trade union leaders to iron out misunderstandings - probably next week, but warned there would be no re-negotiation of the bill.

"If there are differences, it's possible to resolve them in the parliamentary process," Mr Mdladlana said.

The bill aims to achieve fairness in employment and to correct discriminatory employment practices which specifically disadvantaged:

- Black people (African, coloured and Indian people)
- Women
- Disabled people.

Employers must adopt employment policies and practices which do not unfairly discriminate on the basis of race, sex, disability, pregnancy, marital status, ethnic or social origin, sexu-

al orientation, political opinion, culture, language, religion or belief.

Employers will also have to justify why employees should undergo medical tests or psychometric tests, if these are administered.

Firms with 50 or more employees or whose annual turnover is more than

that set for a small business in terms of the National Small Business Act will have to prepare and carry out employment equity plans.

The bill does not set employment equity quotas, but leaves it up to employers and employees to negotiate plans, taking their specific circumstances into account.

Employers who comply with the provisions will be able to tender for government contracts.

But those guilty of contraventions face fines ranging from R500 000 to R900 000. The Labour Court will settle disputes.

Support for the bill versus reservations about the extent of its proposed corrective measures forced Nedlac's business representatives to make separate submissions this week.

Vic van Vuuren and Nick Seagal, speaking for BSA, warned: "South Africa has to be internationally competitive. If we are not optimally able to arrange our own affairs we will be at a disadvantage to provide opportunities and jobs in our society."

But Aubrey Tshalata of Nafcoc said: "It does not take an Einstein to realise that one of the reasons why South African industry and commerce is so uncompetitive is the very poor level of skills and competence of its management and workforce.

"This is as a direct result of discrimination by industry and commerce before and during apartheid.

"The last thing anyone can complain about is the bill is too prescriptive."

Another area of difference was whether small businesses should be covered by the bill.

BSA argued: "Smaller businesses are not in a position to carry extra persons who are still in the process of coming up to speed with regard to their productive capacity."

Nafcoc said most of its members fell into the small business category stipulated in the bill and that "having the threshold doesn't frustrate us at all".

THE government says it will eventually decide on controversial aspects of the proposed Employment Equity Bill itself if no consensus can be reached with business and labour.

New Labour Minister Shepherd Mdladlana said he had no intention of reopening the Nedlac process.

His statement came after a new row blew up this week over agreements reached at Nedlac, raising questions about the body's role.

Business SA (BSA) told the parliamentary standing committee on labour that the department of labour had failed to keep agreements reached at Nedlac, but later denied it had accused government of renegeing on any agreements — or anyone of negotiating in bad faith.

The dispute centres on the term "suitably qualified" and the clause on the wage gap.

According to BSA's submission this week, despite agreement at Nedlac on the definition of the term "suitably qualified person", the drafters of the Bill had modified the definition way beyond the "parameters of what was agreed".

It said the definition of "suitably qualified" had been materially altered in a way that would lead to compul-

# Equity Bill: 'State will decide if others cannot'

Mdladlana says Nedlac will not be reopened for the labour row, writes THABO KOBOKOANE

ST (SNT) 26/7/98

sory tokenism and impose unrealistically onerous obligations on employers, with potentially devastating consequences for individuals and the economy.

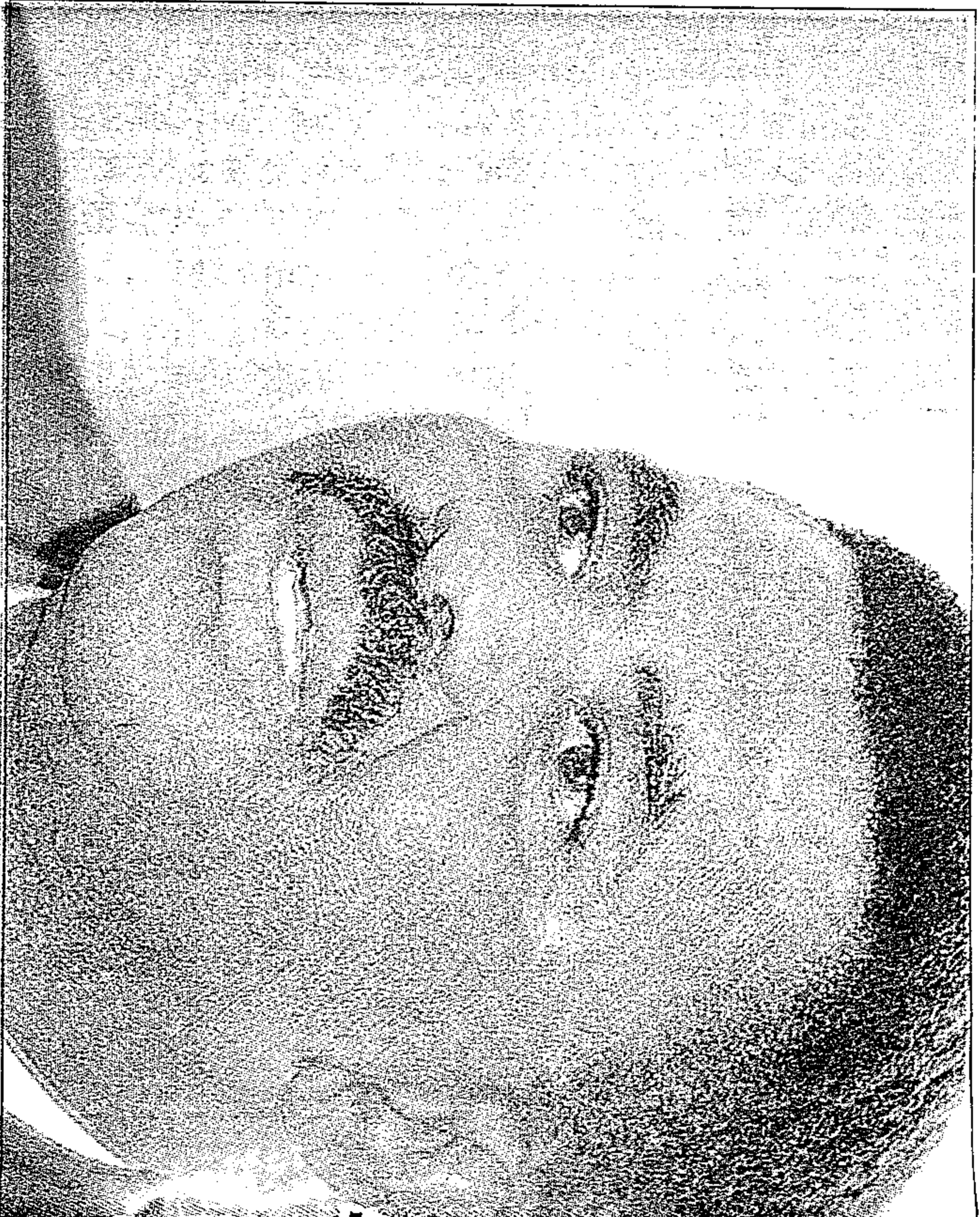
BSA also said it had reservations about the insertion of the turnover threshold, as it would cause administrative chaos in government by bringing an untold number of small and even micro business into the fold.

"It would make the Act impossible to implement, cause

many employers to disregard the law and bring it into disrepute," BSA said.

Mdladlana met business and labour on Tuesday and also with Nedlac executives to try and resolve the stalemate. The row is set to lead to questions over the role of Nedlac and its credibility if such agreements were indeed reached.

Nedlac's objective is to achieve consensus between labour, business and government on contentious issues.



Pict.

ULTIMATUM . . . Labour Minister Shepherd Mdladlana warns that government will act on employme



# Business, govt iron out differences over jobs bill

Reneé Grawitzky ~~BD~~ 27/7/98

BUSINESS South Africa (BSA) and government are optimistic that misunderstandings which emerged during the drafting the Employment Equity Bill will be resolved this week.

The two sides met at the weekend to iron out differences about the shape of the bill. Tension mounted last week after BSA implied that government had reneged on agreements reached in the National Economic, Development and Labour Council (Nedlac) on controversial aspects of the bill. During the parliamentary committee on labour hearings on the bill BSA said it was opposed to "those sections of the bill that deviated substantively from agreements concluded in Nedlac".

BSA claimed the departures related to the wording of the clauses dealing with the appointment of "suitably qualified persons" and the wage gap.

At the weekend meeting, comprising representatives from labour, government, business, the community and the Black Management Forum, it was agreed there was no violation of the Nedlac agreement on the part of government. It was also agreed that government's lawyers would consider a formulation on the "suitably qualified

person" clause tabled by BSA.

Employer spokesman Vic van Vuuren said business never alleged government reneged on the Nedlac agreement, but its view was that the formulation of the controversial clauses in the bill were not in spirit of agreement struck. Hence business had asked government to re-examine the wording.

Sources said problems had arisen during the drafting process. Due to time pressures on the drafters of the bill, it appeared that they had insufficient contact with the Nedlac parties. The drafters were not necessarily able to divine the real intentions behind the compromises reached in Nedlac.

During the committee hearings, BSA argued that the drafters modified the definition of "suitably qualified person" way beyond the parameters of what was agreed. "The definition has now been materially altered in a way that will lead to compulsory tokenism and impose unrealistically onerous obligations on employers."

BSA said the Nedlac definition required that the person recruited should have the "ability to do the job", while the clause incorporated in the bill stated that the applicant could have the potential or the "capacity to acquire the ability to do the job".

# Leon raises objections to equity bill

(176)

CT(BR) 28/7/98

LYNDA LOXTON

Cape Town — After last week's public hearings on the Employment Equity Bill, the portfolio committee on labour will today consider amendments proposed by Tony Leon, the Democratic Party (DP) leader, to "soften" the possible harmful effects of the bill on the economy.

He said in a statement yesterday that while the DP supported the need to redress the imbalances and inequities of the past, it could not support the bill in its current form.

Leon said it would place an unfair burden on small business-

es, harm job creation and reinforce racial differences and "group thinking".

Leon said the bill was also "punitive and coercive" and would "increase government interference in the economy and discourage private investment".

Leon has suggested that a range of incentives be offered to employers to encourage them to right racial imbalances.

These include fast-track treatment of applications for exemption from bargaining council agreements, preferential access to loans from state-funded bodies and preference in the allocation of state tenders.

Leon has proposed the deletion of the section in the bill spelling out "punitive damages", which he said would "only create greater uncertainty in labour law.

"We have included a amendment which takes account of the objections raised in the public hearings last week against parts of Section 20 of the bill," he said.

"As it stands, the bill states that people must be considered suitably qualified for a job not only if they are able to do it, but if they have the potential to do it. This imposes an unfair burden on employers, and we propose that these sections be deleted."

# Put more carrots, less stick in Equity Bill

**ANDRE KOOPMAN**  
PARLIAMENTARY BUREAU

DEMOCRATIC PARTY leader Tony Leon has disclosed several proposed amendments that would make the Employment Equity Bill more incentive driven.

The main thrust of the key provisions of the bill were punitive and coercive, whereas the DP believed in "bushels of carrots and a paucity of sticks", Leon said.

Another amendment proposed by the DP was changing designated employers from those with 50 employees to those with 100 or more employees.

The National Federation of African Chambers of Commerce at parliamentary hearings on the bill has opposed

similar suggestions, saying most of South Africa's businesses are small.

The Employment Equity Bill is aimed at eliminating inequities of the apartheid past by removing discrimination in the workplace and encouraging affirmative action.

It requires companies with 50 or more employees or with a turn-over greater than R10 million a year to draft and implement equity plans.

Leon said at a press conference that the DP could not sanction the bill in its present form, as it would place an onerous and unfair burden on small business.

"Our amendments aim to soften the harmful effects the bill may have on economic growth and job creation, while ensuring that individuals who have been

disadvantaged will receive the benefits of the bill," he said.

"We have included several proposed amendments to exclude small businesses from provisions of the bill which may impose undue hardship on them."

The DP amendments would make for easier implementation of the bill and would provide for additional guidance to business, Leon added.

He said the DP would also prefer an incentive-based rather than a punitive approach.

Among the DP's proposals for providing incentives to employers to create employment equity was the establishment of a performance system to encourage workplace empowerment and compliance with the act.

Factors that should be taken into

account in determining an employer's workplace performance would be:

- The percentage of the payroll spent on training low-skill employees.
- The speed and extent of advancement of low-skill employees and the rate at which literacy levels improved.
- Productivity levels and the rate of their improvement.

Among the incentives which could be offered to employers, Leon suggested were the fast-track treatment of applications for exemption from bargaining council agreements, preferential access to loans from state-funded enterprise promotion agencies, and preferment in the allocation of state tenders.

The proposed amendments would be debated by the National Assembly's labour committee today, the DP said.

# Opposition parties split over employment bill

(176) BD 29/7/98

Vuyo Mvoko (176)

CAPE TOWN — Opposition parties were divided into two camps yesterday about the controversial Employment Equity Bill.

This came on the last day of the labour portfolio committee's hearings on the bill, with the National Party (NP) and the Democratic Party (DP) claiming that while they supported the overall thrust of the bill, they were opposed to it "in its present form".

However the Inkatha Freedom Party (IFP) and the Pan Africanist Congress (PAC) fully supported the bill but said there was a need to correct certain "flaws" and to make some additions.

NP MP Willem Fourie said: "The NP rejects even the slightest attempt to reintroduce the principles of apartheid or any discriminatory provisions of whatsoever nature, or reverse discrimination."

Fourie said the bill put a burden on the relationship between the employer and the employee and made provision for the reintroduction of principles of apartheid and discrimination.

He said it would have a negative effect on the creation of jobs; would racialise the workforce; strain economic growth; put at risk the opportunities of those who were employed; and would not protect the interests of the unemployed.

Fourie predicted that the bill would lead to the destruction of the economy.

DP leader Tony Leon said the main thrust of the key provisions of the bill were "punitive and coercive".

It would place "onerous obligations" on the employer, increase government interference in the economy and was likely to provide a disincentive for private sector investment, he said.

Apartheid was a group-based discrimination system, Leon acknowledged, but said "the DP believes that the bill tilts the

balance against the individual and leans too heavily in favour of the group".

However IFP MP Velaphi Ndlovu said the bill did not "recognise ethnicity as it mixes ethnic and linguistic groupings within the common denominator of 'black people'". This would lead to the possibility of meeting affirmative action requirements with people of a linguistic group who were only a minority in a specific region.

Ndlovu said the programme advocated by the bill "should only be temporary and be revisited by Parliament once it has redressed the imbalances of the past and moved into a new colour-blind society".

The IFP proposed that an amendment be made to force Parliament to "apply its mind anew" to the issue after 10 years.

PAC MP Ngila Muendane supported the bill but said it needed "some panelbeating here or there".

He said that the bill was "long overdue".

Government intervention was needed, Muendane said, or else workers and blacks would be "eternally disadvantaged" in the country of their birth.

He said that those who thought the bill advocated reverse racism were wrong, as apartheid's paradigm was to upgrade some while suppressing the majority.

The PAC felt that while there was discrimination against women in general, there was even more against black women. This was because in addition to discriminatory attitudes, their lot was compounded by statutory discrimination. Muendane called for black women to be classified as an additional designated group.

Labour director-general Siphosiso Pityana is expected to announce on Friday what amendments, if any, the labour ministry could make to the bill after the submissions have been made by business, labour, community organisations and political parties during the hearings.

# Employment Bill needs to be clarified

*Review 29/7/1988*

(176)

By Frank Horwitz

The explanatory memorandum accompanying the Employment Equity Bill clarifies the draft legislation's goal of achieving equality in the workplace by eliminating discrimination.

The Bill also aims to implement positive measures to redress disadvantages experienced by black people, women and the disabled, and to ensure equitable representation in all occupational categories and levels.

To mollify companies' concerns about statutory quotas and regulations, the Bill attempts to facilitate workplace reform through self-regulation by employer and employee parties.

Certain terms and clauses need to be clarified, particularly for parties such as the Commission for Conciliation, Arbitration and Mediation (CCMA).

This is important in establishing clear parameters for employment equity plans, guidelines for employers and labour and clarity in settling disputes.

The following terms and clauses should be defined and explained.

● Racial or sexual "harassment" as a form of unfair discrimination is not defined in Section 5(3) of Chapter 2. It could be interpreted as using racist or sexist speech as well as conduct;

● Section 5(1) refers to direct and indirect discrimination. These terms and the differences between them should be defined and examples should be provided; and

● The term "equitable representation" is used in several sections of the draft legislation.

The Bill allows employers to consider regional, sectoral and industry-specific factors, demographics and the labour-market supply of certain skills. The longer-term goal, however, is a diverse workforce reflecting the national demographic profile of groups at all levels.

There is a need to give clearer

guidelines on "equitable representation". This is important in defining the meaning of appointing "suitably qualified people". This could describe academic, occupational or experience-based competencies.

Employers will be required to train and develop people from designated groups (Chapter 3, 12 (e)). Using the excuse that there were not enough "suitably qualified" people to hire from one of these designated groups will not necessarily be acceptable.

Proactive measures, such as scholarships and bursaries, are important in promoting an active employer role in tertiary occupational education.

Too much legal specificity limiting terms such as "equitable representation" will likely result in the practice of setting quotas. This may discourage the setting of targets, one of the Bill's more flexible features. Targets or goals take situational factors into account in a more pragmatic way.

## Employer fears

The Bill tries to allay employer fears about quotas (Section 3 (a)), appointing people not suitably qualified (Section 3(b)), and appointing white males (Section 3(c)). Employers are also not required to create supernumerary posts for designated groups.

Despite this apparent flexibility, the penalties outlined in Chapter 2 are severe, particularly those dealing with the payment of compensatory damage. This is especially true for smaller organisations.

Punitive damages lie within the discretion of the Labour Court. Fines of R500 000 to R900 000 are somewhat high.

Larger organisations, realising they are not making progress, or who show little intention of addressing employment equity, may set aside funds for this contingency.

Flexibility is important but it will be difficult to make reasonable progress if labour turnover is low

because employers are not required to hire new employees. The Bill should rather have a mix of penalties and positive incentives to achieve equity plans.

As the Bill has the long-term goal of creating a diverse workforce, it seems unlikely that legislation on employment equity and affirmative action will be an interim measure.

More likely, employment equity plans, programmes and reporting requirements will continue indefinitely, subject to review.

One of the Bill's positive features is that it permits employers, employees and trade unions to regulate themselves. Section 17 addresses employment equity plans and contains many vagaries which need to be explained.

Two fuzzy concepts concern the "under representation" of people from designated groups and "reasonable progress" towards implementing equity.

The CCMA or the Labour Court may be left to interpret or give substance to these terms. Instead of these prescriptive definitions, the Ministry of Labour should provide guidelines or codes of practice.

The notion of "reasonable accommodation" in Section 61 is limited to people with a disability.

One could ask whether this concept should not be extended to other areas with discriminatory potential, religious observance and working mothers, for example.

Sections 39 and 40 give the director general of labour wide powers. These controls should be given as a last resort, given the dispute resolution procedures envisaged through the CCMA and the Labour Court.

An employer can, however, challenge the director general's decision in the Labour Court.

The Bill's dispute resolution procedures is complemented by Schedule 7 of the Labour Relations Act (LRA), which includes unfair discrimination provisions which can be referred to the

CCMA for conciliation and to the Labour Court for subsequent arbitration.

Section 24 calls for disputes about duties of designated employers to be referred to the CCMA for conciliation, and if not resolved, to the CCMA for arbitration.

These duties include consultation, disclosure, analysis of employment practices, an employment equity plan and an annual progress report on implementation to the Labour Ministry.

A dispute about protection of employee rights conferred by the LRA (Section 48) may be referred to the CCMA for conciliation under Section 49. If unresolved after conciliation, it may be referred to the Labour Court for adjudication by the CCMA.

These procedures are satisfactory, but the CCMA is likely to carry a large additional load as a result of this Bill.

## Resolving disputes

To alleviate the CCMA case load, alternative dispute resolution provisions should be included in the LRA.

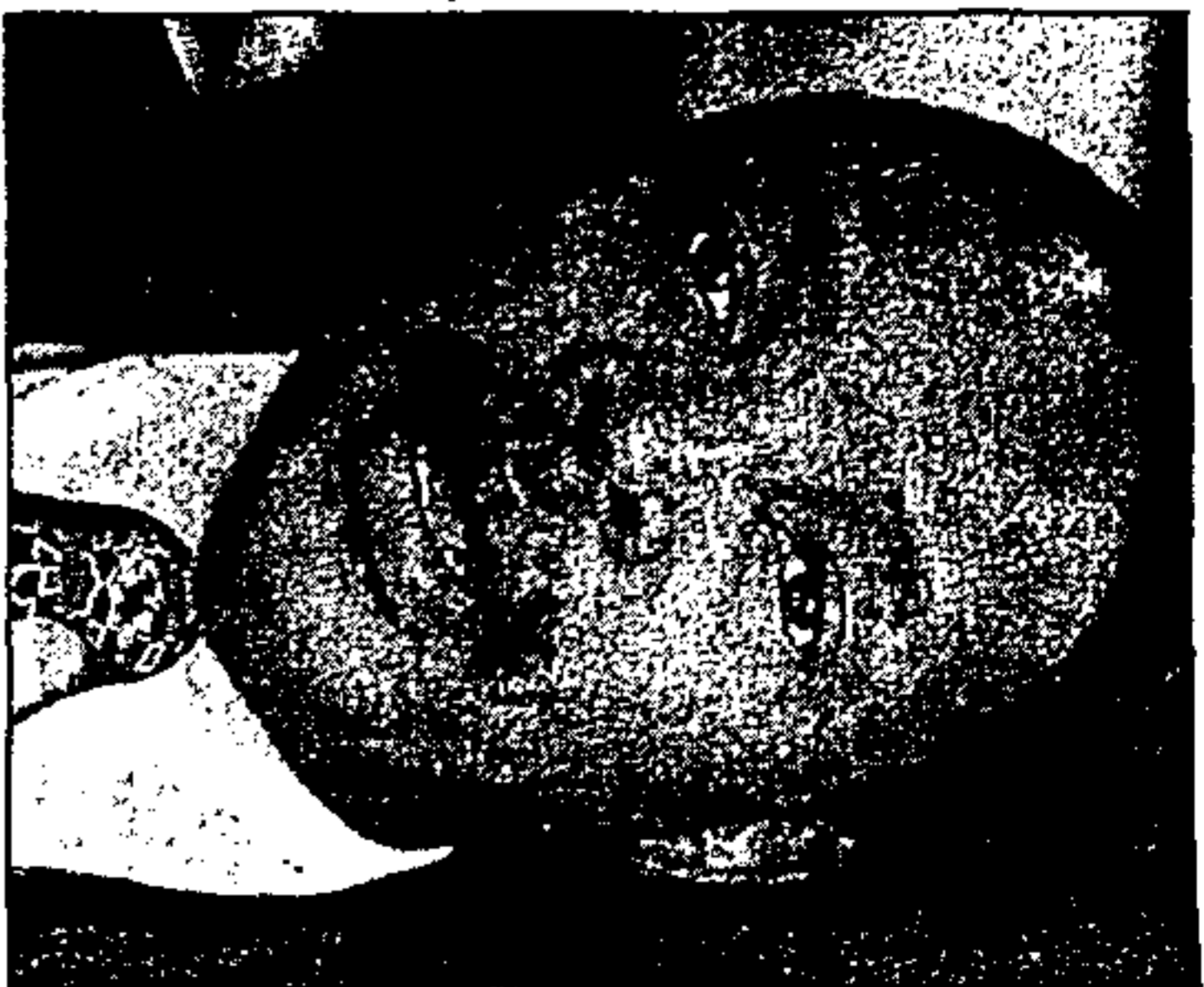
The Bill does not provide for bargaining council dispute procedures and the use of alternative agencies such as the Independent Mediation Services of South Africa.

This is a serious omission. The law should encourage preventive dispute systems.

Discrimination disputes are often complex and mediation and arbitration may not always be effective.

The Bill should include provisions encouraging joint problem-solving and alternative, proactive forms of dispute resolution.

The LRA's current procedures pro-



Labour director general Siphon Pityama ... the Employment Equity Bill gives him wide powers in the resolution of disputes. Maybe he should be given this authority as a last resort.

vide a remedy for aggrieved individuals, but do not address the underlying basis for discrimination and inequity.

It can be argued that the law should seek to remedy only symptoms. Providing a broader framework which includes provisions for alternative dispute resolution might be a step towards resolving deep-rooted problems and conflicts.

To achieve equity through affirmative action, measures contained in the Skills Development Bill should complement the proposed legislation.

Equity will not be achieved without substantial investment in human resource development linked with strategic organisational goals.

Legal "carrots and sticks" will help. Effective human resource development, however, is a function of the strategic importance given to it within an organisation.

This requires mobilising materials and assets and showing the wherewithal to create a culture of people development and equity.

(The writer is a part-time CCMA commissioner and professor of human resource management at the University of Cape Town. His article was first published in the June issue of South African Labour Bulletin.)

ANALYSIS & COMMENT

# DP's proposals for employment bill are market-orientated

THE Democratic Party has just tabled its proposed amendments to the controversial Employment Equity Bill.

Democratic Party leader Tony Leon outlines the party's suggested amendments to the Employment Equity Bill, which will be debated in Parliament next week

(176) PD 30/7/98

Our amendments are not aimed at simply reopening or blindly criticising the present draft of the bill. They are a practical, market-orientated answer to the many concerns that have been raised against the bill.

While the DP does support smart policies and practices to develop and empower all people who have been disadvantaged in the past, it takes cognisance of the economic realities facing the SA labour market.

Unemployment affects 25% of the population. It is unemployment not historic disadvantage, which is the most important cause of poverty and inequality. The bill should strive to create a climate conducive to job creation and foreign investment.

Yet the legislation will place onerous obligations on the employer, increase government intervention in the labour market and is likely to provide a disincentive against investment. SA should aim to address the problems of unemployment and poverty by concentrating on education, training, literacy, health, welfare and population development.

Moody's Investment Services vice-president Kristan Landow recently said SA's international investment grade rating was being reviewed, and possibly downgraded, because of government policies that have not been supportive of foreign direct investment inflows that SA needs to fulfil its development requirements. The bill should be amended in order to prevent this downgrading.

The DP's proposals strive to make the bill more attractive to investors, entrepreneurs and small business — for example, our proposed amendment to the "designated employer" definition increases the number of people em-

ployed by such an employer from 50 to 100. This will ensure that the small- and micro-business person will not be deemed to be a designated employer.

The current definition in the latest draft provides that even if an employer employs fewer than 50 people, but has a total annual turnover that is equal to or above the applicable minimum annual turnover of a small business in terms of the Small Business Act, it would be deemed to be a designated employer for the purposes of this bill. This insertion of an annual turnover threshold draws "mom & pop" stores — small family businesses — and every petrol filling station in the country will fall in its net. The DP finds this unacceptable and has amended the turnover threshold to vary according to the specific industry. The most important DP

amendment relates to the definition of "designated groups". The bill refers to blacks, women and disabled persons as the members of the designated group; the DP's proposal follows the wording of the constitution's section 9(2) which refers to "all persons or categories of persons who have been disadvantaged by unfair discrimination". This amendment will ensure that past imbalances are redressed, but by way of individualising the bill and moving away from primarily race or gender classifications.

It will ensure that nobody "falls through the cracks" by not belonging to a certain group. It will also ensure that this legislation does not, for all time, concretise race and gender as the cross and star of the new SA.

The DP's proposed amendments are in tune with international trends of deregulation and globalisation of the labour market. The amendments strive to temper down the punitive and coercive provisions of the bill by adding incentives: in a word, more carrots, less sticks.

These measures include a performance rating system, which can be used by any employer to apply for a number of possible incentives, such as preference in the allocation of state tenders, fast-tracking applications for exemption from bargaining council agreements and preferential access to loans from state-funded enterprise promotion agencies. A list of all designated employers who have complied with the provisions must also be published by the labour department each year.

The amendments relating to state contracts are more attractive to potential investors, whereas the draft makes it possible for existing state contracts to be can-

called forthwith and without recompense in cases of non-compliance by a designated employer. The maximum fines imposed for contraventions of the act, ranging from a half a million rand upwards, are destructive to the small business sector and provide a disincentive to this sector to create jobs. The DP has addressed this by proposing lower fines that are not as draconian.

These amendments have been drafted to make the bill more attractive and to ensure compliance. They are practical, incentive-driven and will create a climate conducive to job creation and to long-term investors.

In contrast, the bill, as drafted, could slit its own throat. It wants to move away from apartheid, yet uses race classification as its lodestar; it wants to narrow inequalities and redress historic imbalances, yet will ensure that the unemployment quagmire lengthens. SA needs change and transformation, but let us not destroy better than we know.



LEON

# Call to end affirmative action

(176)

Kevin O'Grady

EASTERN Cape Democratic Party leader Eddie Trent yesterday called on the provincial government to abandon its policy of affirmative action on the grounds that the policy's goals had already been achieved.

Trent said a reply from premier Makhenkesi Stofile to a question posed in the provincial legislature "revealed conclusively that the Eastern Cape public service is a fair and acceptable reflection of the ethnic and gender demographic breakdown of the province's population".

The figures show that of the 133 645 employees in provincial departments, 114 807 (85,9%) are black, 379 (0,28%) Indian, 9980 (7,47%) coloured and 8 479 (6,34%) white. Men make up 36,2% and women 63,8%.

Trent said there was no longer "any rationale for continued affirmative action in the service".

"Given the serious shortage of skills ... the policy of focused affirmative action must be abandoned immediately in favour of appointments based purely on merit, experience and expertise".

The figures released by Stofile also show that the majority —

80 999 or 60,6% — of provincial public servants are employed in the education department.

The next biggest employer is health with 32 123 (24%), followed by public works with 7 619 (5,7%), agriculture and land affairs with 5 026 (3,76%), local government and housing with 2 800 (2,09%), welfare with 1 413 (1,05%), transport with 1 320 (0,98%), economic affairs and tourism with 1 292 (0,97%), sport arts and culture with 537 (0,4%), the premier's office with 338 (0,25%), finance and provincial expenditure with 151 (0,11%) and safety and security with 27 (0,02%).

# Affirmative action will not solve labour problems — Cosatu

THE Congress of SA Trade Unions (Cosatu) said yesterday affirmative action was not the solution to labour problems as it tended to focus on the promotion of a small number of individuals at the expense of the greater labour market.

Cosatu secretary-general Mhazima Shilowa said affirmative action made it possible to promote individuals while leaving "the patterns of the

apartheid labour market — discrimination and inequality — fundamentally undisturbed".

Shilowa said a more comprehensive approach was needed to redress inequities in the labour market, to the advantage of all workers. "A mere repeal of past discriminatory laws is insufficient to tackle this," he said.

One issue which needed to be addressed was the wage gap, with "a concentration of low-

wage, low-skill employment among black and women workers on the one end and, at the other end, high-paying managerial positions monopolised by white men."

Shilowa criticised business for using the argument that labour was expensive to support calls for a more flexible labour market.

"I am sure you have all read or heard that labour is expen-

sive. When industries face problems, the immediate response is to retrench and to outsource services."

He said a study showed that 60% of the national wage and salary bill went to salaried staff, such as white collar workers.

"Those who amassed wealth through the denial of workers' rights remain opposed to the distribution of wealth," he said.

BD 31/7 98 (174)



# DP proposes alternative affirmative action policies

Linda Ensor

CAPE TOWN — The Democratic Party has proposed a number of affirmative action policies in the fields of employment, education and land distribution which would offer opportunities to the currently disadvantaged.

In a discussion document released yesterday entitled *In Place of Race and Quotas: Building the Opportunity Society*, the DP continued its critique of government's affirmative action policy.

The document proposed a voucher system for schoolchildren; the distribution of state-

owned land (which totals about 32-million to 40-million hectares) to the landless; and the use of a rating system to identify and promote companies which devoted resources to training, the advancement of the low-skilled and the improvement of the literacy and productivity levels of their staff.

The DP's approach, leader Tony Leon said, was that targeted groups would not be defined in terms of physical characteristics but as individuals who were subjected to unfair discrimination in the past on the basis of their membership of particular groups which led to a lack of opportunity and in-

3 P 1 F I I E Q K S

equality of basic opportunity in the present. "This definition emphasises that it is only those who lack opportunity now who are intended to benefit — government affirmative action policies should not privilege those who have already overcome past disadvantages," Leon said.

"It is not true that all black, coloured and Indian South Africans suffer either poverty or diminished opportunity because of unfair discrimination. Accepting the fact will help us address the legacy of the past without institutionalising race consciousness through race-based legislation."

(F 11 F)

The DP said the problem of inequality was not inequality of income, but inequality of basic opportunity. "We purposefully refer to inequality of 'basic' opportunity, rather than simply 'unequal opportunity' because it is neither desirable nor possible for the state to completely equalise the life opportunities of every individual in society."

The DP's education scheme would entitle every pupil to a direct grant, redeemable by the school of choice. Grants would also be made to disadvantaged schools. In the private sector, the party dismissed a prescriptive and punitive system in favour

(176)

of a voluntary, incentive-driven one. "Our suggestion is that government accredits a privately run star rating system for workplace empowerment combined with incentives to those employers who achieve high star ratings."

Incentives would include exemption from the skills levy, fast-track treatment of applications for exemption from bargaining council agreements and preferential access to loans from state-funded enterprise promotion agencies.

FD 31/7/98

# Affirmative action immoral and impractical, says DP (176)

CT 31/7/98

**KERRY CULLINAN**  
PARLIAMENTARY BUREAU

AFFIRMATIVE action should empower individuals, not groups, through measures such as "opportunity vouchers" for students and young job seekers, and leases for landless people, the Democratic Party proposed yesterday.

DP leader Tony Leon said his party believed that it was "immoral and impractical to try to redress racial

imbalances by taking steps which will entrench race consciousness".

Speaking at the launch of the DP's draft policy on affirmative action, Leon said that South Africa had to transform itself from a "state-centred society to an individual-centred opportunity society".

For this reason, the DP had three key proposals aimed at offering incentives to individuals.

The first involved the state giving young job seekers a R3 000 voucher which they could redeem for further education and training, use for seed capital to start a new business or as part of a wage.

Vouchers equal to what the state spent per pupil should also be given directly to pupils. They could then use these at whatever school they attended. Currently disadvantaged schools would be given a further grant to upgrade facilities and hire extra staff.

The DP's third proposal is aimed at "extending property ownership to disadvantaged South Africans" by making state land available to landless people.

The DP's Errol Moorcroft said the leases could be on the basis of the old "quit rent system", where rent was paid for a set number of years and if the tenants proved they were using the land productively, it was then given to them.

Leon said the DP was totally opposed to affirmative action that "punished one group". Employers should be rewarded for employing and training low skilled employees through incentives such as preferment in the allocation of state tenders and exemptions from the skills levy proposed in the Skills Development Bill.

# Rumblings over posts at Parliament

ST(Cum) 2/8/98

(176)

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HENRY LUDSKI

PARLIAMENT'S management has apologised to staff for handling a senior affirmative action appointment in an "insensitive" manner. Chris Lucas, general manager of Parliament, said his management had conceded that its actions could have been interpreted as being insensitive to the aspirations of staff members.

The chairman of the National Education Health and Allied Workers Union (Nehawu), Fasjegha Carelse, had claimed that a black staff member had been ignored when Parliament filled a senior management post. The successful candidate was also black.

The staff member had the "potential" for the job, but had not been invited for an interview.

"Senior black staff members with potential are becoming frustrated," said Carelse.

"They are leaving at a rate of five a month because room is not being created for them to move into upper management positions.

"Our concern is that affirmative action is being applied too rigidly at Parliament by focusing on its targets of 20 percent whites and 80 percent black instead of looking at shades of grey."

The union was not opposed to the appointment of the successful black candidate, Carelse said, but it believed the staff member had not been treated fairly.

Nehawu had received a letter of apology from Parliament's management.

Lucas said that although Parliament had made significant progress, it "had a long way to go" on some levels.

"It's no secret that positions in middle management are still held mainly by whites. However, once our restructuring process has been completed, it will be different. In a few months, the affirmative action picture in middle-management will look better."

# Equity bill inches to completion

LYNDA LOXTON

Cape Town — The debate about the constitutional aspect of certain parts of the Employment Equity Bill continued in parliament yesterday, but Godfrey Oliphant, the chairman of the labour committee, said he was confident the final bill would pass any constitutional test. CT (GR) 2/8/98

The committee considered several amendments suggested by the labour department after its recent meetings with Business South Africa and trade unions, and asked for clarity on some issues.

The department spent yesterday afternoon tightening up the bill. The committee is due to vote on it today before it goes to the national assembly on August 20.

The debate mainly centred on the issue of so-called "designated groups" and the concerns that the singling out of black women could affect other groups that had also suffered job discrimination.

Sipho Pityana, the labour director-general, said it had been decided that the employment equity commission would issue guidelines on the prioritisation of designated groups.

# Affirmative action must be rapid yet rational

The concept is correct but the execution often sadly flawed and counter-productive, writes Malvoxy Adams



**A**n unwillingness to accept change and an inbred fear of the *swart gevaar* lie at the heart of the inability of companies to effectively implement empowerment. Company executives may not admit it, but somehow they subconsciously don't believe that the "bright sparks" they have chosen for higher service "can master the job".

Usually, the chosen ones become "important people" somewhere in the underfinned middle of management, and then they stagnate between the middle of nowhere and the top. Herein lies the problem, because the chosen ones are not always the most skilled and dedicated workers, but the most popular in management circles. The concept of merit is another mis-

nomer: How do you determine a person's merits if this person never had a chance to develop or display his/her skills?

It is exactly for this reason that one cannot but agree with Lot Ndlovu of the Black Management Forum that plodders need a wake-up call in the form of some sort of Government intervention.

One does not expect Government to enforce the provisions of the Employment Equity Bill with the same venom as the previous government enforced the Job Reservation Act, but this new law must pack a solid punch.

**H**owever, one must guard against the empowerment implemented in the public sector, where skills are as scarce as hen's teeth. This skills shortage renders sections of the public sector

ineffective, and it is spread over all nine provinces, Dr Paseka Ncholo, director-general of the public service and administration once observed.

Passing "people-centred" laws neatly outlined in eloquent English is one thing; implementing them is another. The officials at provincial and local government level know they must implement Government policy and what they must implement. But they don't know how to implement it.

Ncholo attributes this to the "strange situation" whereby the politicians were appointed first and then the public servants. He also quoted an audit submitted to the Cabinet which pointed to an inability by some of these officials to manage, to take strategic decisions and to implement Government policy. A fertile ground for financial mismanagement.

Therefore, it came as no surprise when President Mandela ordered a probe into extensive claims of corruption and maladministration in at least 16 government departments in three provinces - the Eastern Cape, Mpumalanga and KwaZulu Natal.

**T**hen there are those who are flirting with pseudo-empowerment under the guise of "potential development". This practice is not dissimilar to development in sport. The scheme is: once you've been declared a development player, you've signed your death warrant, because that's exactly what you're going to remain. In the workplace these people develop horizontally.

Then they are dumped into key positions without the necessary knowledge. One can hand out fancy "gifts" like non-executive director on a platter, but without executive powers and the necessary groundwork to master the task at hand, these people will be rendered useless.

No one denies that all persons who have been victims of unfair discrimination are entitled to empowerment, and in implementing it companies need to travel at the speed of light.

But dumping people indiscriminately into key positions is not the answer. Instead of getting rid of your skilled people, let the not-so-skilled learn and develop alongside the skilled ones to achieve maximum performance.

If this route is not pursued, our already unsteady economy will sink deeper into the doldrums.

(176) 8 Nov 5/8/98

# Labour plan will cost jobs, warns business

ARB 7/8/98 (#6) (176)

## BUSINESS STAFF

Complex and onerous obligations in the Employment Equity Bill on employers will result in job losses, according to Business South Africa (BSA).

BSA expressed its concern yesterday at some of the new proposed

amendments to the Bill tabled by the Department of Labour. These concerns include: the wage gap (though BSA reiterates its support for the measure designed to eliminate unfair wage discrimination); HIV testing; and the definition of family responsibility.

BSA remained concerned that

no amendments had been tabled to address the negative impact of the legislation on small business.

The new proposals would constitute further disincentives to domestic and foreign investors at a time when it was vital for South Africa to become competitive in a globalised economy, the BSA said.

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# DP's proposed carrots may be impotent without a stick

The Democratic Party's thinking on affirmative action may suffer from a serious blind spot, argues Linda Ensor (176)

IN A context of vast inequality and dispossession as is the case in SA, all policies and programmes aimed to empower and uplift could be dubbed affirmative.

This is the approach adopted by the Democratic Party (DP) in its recently released discussion document on affirmative action. It follows its controversial critique of government's policy, titled Death of a Rainbow Nation, which equated affirmative action with the reracialisation of society.

The DP's proposals for access to education, jobs and land for all are indisputable. But by defining the problem so broadly, the suspicion lingers that the very real problem of racial selection in the workplace and elsewhere may have been swept under the carpet. Addressing poverty and creating opportunities is a large part of the solution. The question is whether it can be the entire solution, or whether it artificially ignores structural obstacles to equality.

According to party leader Tony Leon, the key challenge of affirmative action is to overcome the socioeconomic legacy of the past and redress a lack of opportunity, without reaffirming race as a determinant of life chances and opportunity. But how to undo the fact that race all too often acts as such a determinant?

The 1994 elections ushered in political democracy — they by no means eradicated racism from the workings of civil society.

What the DP's discussion document refuses to accept is that specific measures may be required to compel employers to act in ways contrary to their own racial perceptions of black ability and potential. Voluntarism and incentives, as the party proposes, might not be sufficient.

The fundamental premise of the DP's policy proposal is that affirmative action should not entrench race consciousness through such measures as quotas, but instead create opportunities for those who lack them in the present. Past disadvantage needs to be redressed only if people are still crippled by it. "It is not true that all black, coloured and Indian South Africans suffer either poverty or diminished opportunity because of past unfair discrimination. Accepting this fact will help us address the legacy of the past without institutionalising race consciousness through race-based legislation," its document states.

The DP believes the state should not dictate affirmative action measures to the private sector — these should be voluntary

and incentive driven, not prescriptive and punitive. Compulsion to implement race-based, affirmative action policies relying on quotas and time-bound targets would act as a disincentive to investment.

It proposes that government accredits a privately-run star rating system modelled on the one used for occupational health and safety and provide incentives to those employers who achieve high star ratings. Employers would voluntarily submit to the oversight of the agency.

Incentives could include exemption from the skills levy proposed in the Skills Development Bill, fast-track treatment of applications for exemption from bargaining council agreements, preferential access to loans from state-funded enterprise promotion agencies and preferment in the allocation of state tenders.

Factors to be taken into account in determining an employer's workplace empowerment star rating could include the percentage of payroll spent on training low-skill employees, the speed and extent of advancement of low skill employees, literacy levels among low skill employees and the rate at which these improve and productivity levels and their rate of improvement.

These innovative suggestions beg the question whether the carrots proposed might be impotent in the absence of a stick.

The DP also proposes concrete ways to give individuals equal access to basic opportunities — education, jobs and land. In education, every pupil would be entitled to a direct grant, redeemable by their school of choice. Additional grants would be made to all schools deemed disadvantaged because of the apartheid past and to those serving socio-economically disadvantaged areas.

On the jobs front, a (previously proposed) opportunity voucher worth R3 000 would be distributed to 300 000 matriculants and 200 000 unemployed youths each year for five years. The voucher would be redeemable for any accredited form of education or training, in exchange for part of a wage or for self-employment start up kits. In addition, the apprenticeship system should be deregulated and employees given the right to opt out of some provisions of the labour law which act as a brake on job creation.

And to broaden access to land, the DP proposes that government set up a statutory body to divide and allocate unused state-owned land to landless people.

# More storms over Equity Bill

FRANK NXUMALO  
AND LYNDA LOXTON

Johannesburg — Voting at the parliamentary portfolio committee on labour on the stormy Employment Equity Bill was postponed yesterday, "until maybe next week".

This followed sharp reaction from Business South Africa (BSA) to proposals by the labour department to include two new clauses on the "apartheid wage gap" and the definition of "suitably qualified".

On Tuesday Sipho Pityana, the director-general of the department, proposed that companies include an "analysis of the wage gap" in their employment equity plans.

He also wanted the definition of "suitably qualified" to be changed to include formal qualifications, prior learning, relevant experience and the capacity to do the job within a reasonable time.

BSA said it recognised wage

inequalities "because of apartheid" and that "the bill itself was one of the ways of addressing the issue by facilitating the movement of designated groups to higher occupations". But it said the clauses were the wrong way of going about it.

"We realise there are large disparities in wages and that they should be addressed, but we feel that these clauses are the wrong instruments to address the wage gap," said Frans Barker, BSA's representative.

Barker said that by compelling companies to submit the kind of information contained in employment equity plans, the government was undercutting the international competitiveness of South African firms. These plans were an integral part of a firm's sensitive operational cost structure. They might cost hundreds of thousands of rands to put together, yet might end up being "freely" accessible to competitors.

Zwelinzima Vavi, Cosatu's

deputy general secretary, said: "In some sectors the ratio between highest and lowest paid workers is 100:1. We want this gap to be reduced to at least 8:1.

"The overwhelming number of workers' wages fall well below the minimum living level. This trend has not decreased but increased in recent years.

"Our position is largely guided by the need to confront the apartheid wage gap which was inherited from the Wage Act that sought to condemn black workers and blue collar workers to poverty wages," Vavi said.

He said many workers could be described as "working poor", which meant that despite being employed they "continued to be poor and little better than the permanently unemployed".

Luiso Mbabane, the director for equal opportunities, said the department had been examining how similar monitoring programmes (of equity plans) worked in the US.

CT (DR) 6/8/98

(176)



# NEWS

## Cosatu outlines its position on Equity Bill

FRANK NKUMALO

LABOUR EDITOR

Johannesburg — Cosatu said yesterday it wanted the ANC's proposed amendment to the new section 27 of the Employment Equity Bill read together with section 19 (3), another new section, and adopted by the portfolio committee on labour when it met again next week.

clear signal of the government's seriousness to concretely address the issue of apartheid income disparities".

lana, the labour minister, over the section and other areas of concern on the bill. Both sections address the apartheid wage gap in the workplace.

Cosatu said section 27's wording — that employers "may" take measures to rectify any anomalies as prescribed by section 19 (3) — "did not oblige them to do anything about it".

sures" to reduce such differentials, including collective bargaining and compliance with sectoral determination. Cosatu said if approval were given to these amendments, it will be "able to wholeheartedly endorse" the bill.

ET (PR) 718/98

A spokesman for the department of labour said Mdladlana was expected to address BSA concerns at a media briefing in Cape Town this morning.

Section 27, which the department of labour proposed be inserted in the bill, drew sharp reactions from Business South Africa (BSA) earlier this week, and voting on it was postponed until next week.

an analysis of a company's wage structure must include "a statement as prescribed of the remuneration and benefits received in each occupational category and level of the employer's workforce".

It wants ANC amendment proposals inserted for section 27 to read that where differentials were reflected in the statement prepared in terms of section 19 (3), "employers must take mea-

sure" to reduce such differentials, including collective bargaining and compliance with sectoral determination.

# Affirmative action works for Didata

(176)  
ST (MT) 9/8/98

BLACK empowerment in the competitive, high-risk IT sector is working for JSE-listed information technology giant Dimension Data Holdings (Didata). It's Emerging Companies Group, which has a successful three-pronged black empowerment process under way, is showing measurable signs of success.

Dimension Data director David Molapo says the company initiated its unique black empowerment process to address affirmative action in a holistic way: an internal programme to address affirmative action within the group; an external social investment programme; and a mentoring and financial support programme for emerging black-owned IT businesses.

All three are long-term initiatives, under the guidance of Nic Venter, consultant to the Emerging Companies Group, and are showing signs of success.

"Agreements have been concluded with four young, dynamic companies, with Dimension Data providing growth capital, while retaining an option to convert this into a minority equity stake," says Venter.

Apart from providing growth capital, Dimension Data group companies also sub-contract specific projects to the Emerging Companies where appropriate, and partner them in tender bids.

"Each emerging company is closely associated with an established Dimension Data division to enable a meaningful mentoring relationship to develop. This has been so successful that the programme is being extended to other Dimension Data divisions and associate companies. Indeed, EDS Africa, in which Dimension Data has a 50% stake, is currently looking to form a similar partnership," he says.

One of the Emerging Companies' successes is Melodi Communications, set up eight months ago by Colin Matlala and mentored by Dimension Data Telecommunications. The business was re-engineered to focus on installation services and project management in telecommunications infrastructure.

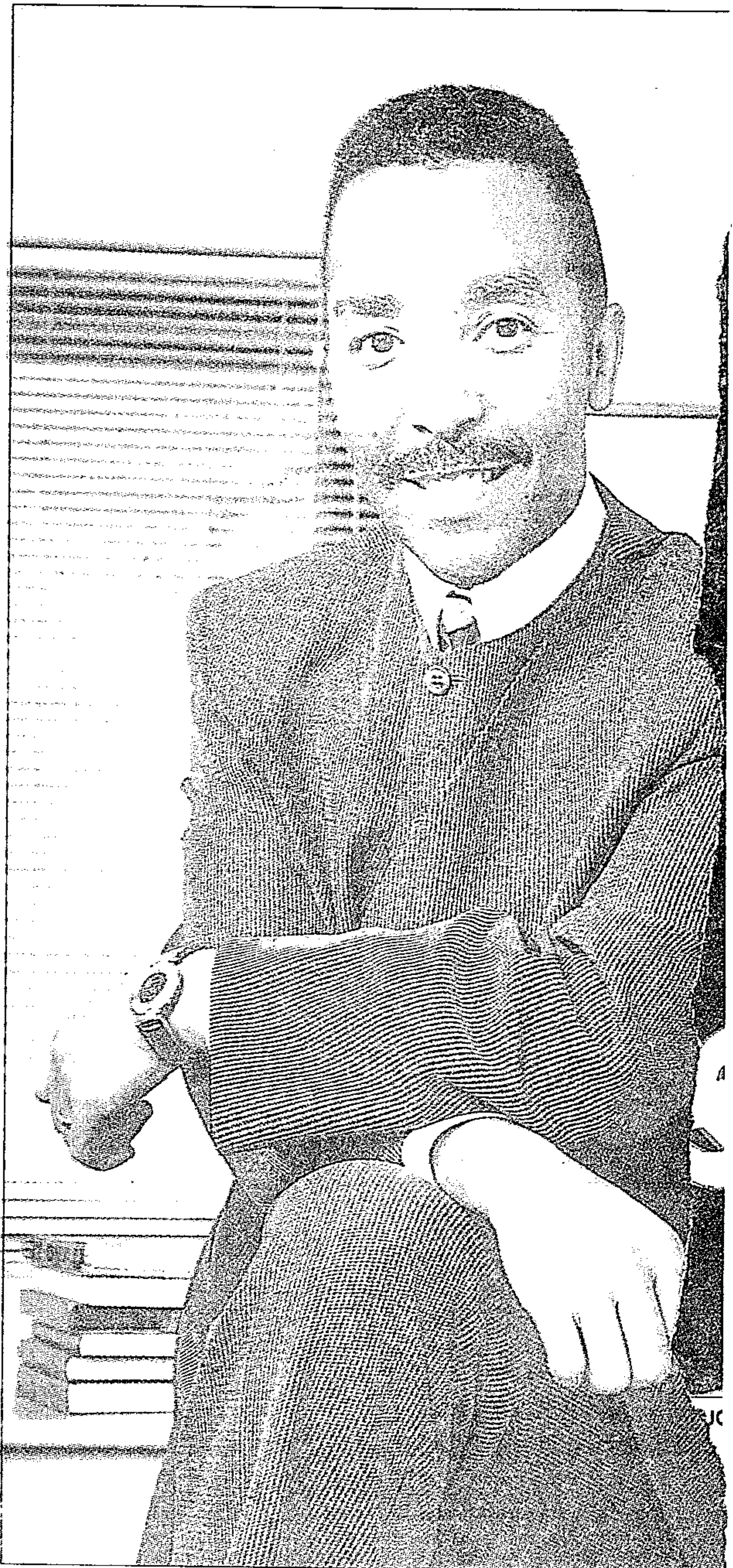
Melodi receives orders for products from significant market players, and is partnering with large corporations on projects requiring high-tech skills. In addition, companies like Altech and Siemens are making a major contribution by training Melodi people and teaching them skills in specialised areas.

"Melodi now employs 11 people, many of whom are acquiring much needed technical skills while simultaneously building up the company," says Venter.

Another emerging company, Safika Technologies, which is mentored by Dimension Data Networks and focuses on internetworking and the provision of software application products, is making inroads into the financial services sector.

Choice Technologies, which started as Itumeleng, a black empowerment initiative of DNS, was recently acquired by Dimension Data.

GOSA Technologies, mentored by Dimension Data's SPL division, is currently looking to boost its technical capacity through the possible acquisition of a small, black owned software development company.



HOLISTIC ... David Molapo says his company tackled empowerment with a ti

# Throwing a confusing spanner into the works

*Amendments to the Employment Equity Bill will turn a good idea into a bad compromise. CAROL PATON reviews the proposed affirmative action legislation*

(176)  
ST 9/18/98

**I**N ITS original form the Employment Equity Bill had two aims: to promote equal opportunities in employment by outlawing all possible forms of discrimination, and to bring about redress for disadvantaged groups by legally binding employers to implement affirmative action programmes.

This week, with its proposed amendments to the Bill, the government added a third aim: that it should somehow be used to reduce the huge differentials in SA between the highest and the lowest paid, a phenomenon called the apartheid wage gap.

This would be done by requiring employers to disclose the salaries of all their employees, which, in turn, would provide unions with ammunition to bargain down the differentials.

The addition has confused the Bill's original intentions. It has further confused public debate about the Bill, which was already suffering from a good deal of misunderstanding.

The Bill's non-discrimination clauses are quite clear and not, in the light of the Constitution, anything new. Discrimination on any grounds is prohibited.

The clauses on affirmative action are more complicated.

Employers of more than 50 people (or owners of smaller firms with a turnover higher than the threshold of a small business) must give the Labour Department an annual analysis of the workforce and a plan which shows how they aim to

improve representation at all occupational levels.

The plan must set numerical targets for the employment of the three groups mentioned in the Bill: blacks, women and the disabled. Candidates from these should still be considered for employment even where they lack the formal qualifications or experience but have the potential to acquire the ability to do the job.

However, the Director-General of Labour, Siphosiso Pityana, says companies whose workforces are not representative will have a chance to explain why and identify the obstacles to improvement. These could include skills in short supply; low staff turnover, which means there are few vacancies for new black, female or disabled entrants; or no physical access for the disabled.

If a company can show it has made "reasonable efforts" to overcome these problems and meet targets to employ blacks, women and disabled people, its attempt will be considered adequate, even if it fails, says Pityana.

In addition, Pityana, who will be able to impose fines of between R500 000 and R900 000 on firms which do not comply with the Bill, will have to consider the demographics of an area, the existing pool of labour, staff turnover and financial factors before doing so.

While the affirmative action provisions have raised alarm in

some quarters, the Bill has been accepted without much fuss by big business because many of its provisions are a lot less controversial in practice than they appear on paper. On paper, the provisions look like a drastic attempt at social engineering, but in practice, most big companies are by necessity moving in the affirmative action direction and believe that drawing on a wider pool of talent makes good economic sense.

Apart from the economic sense argument in favour of affirmative action, the Bill also has other positive features.

By forcing employers to consider disadvantaged people with potential for employment the Bill will contribute to social justice in the workplace.

By calling on employers to employ people with potential it will also make employers provide targeted training.

While black men have, in the absence of legislation, already experienced accelerated occupational mobility, the Bill will have a positive effect on women and disabled people, who will be drawn into mainstream employment in far greater numbers than ever before.

The Bill also strengthens non-discrimination against gay people. One of the amendments, for instance, stresses that there should be no difference between a spouse and a same-sex partner.

The clause that requires that people with potential be includ-

ed in the workforce caused controversy in business. But after a meeting with the government last week it was agreed that candidates would have to acquire the capacity to do the job "within a reasonable time".

However, in throwing this compromise to business, the government also tossed one in the direction of labour.

Cosatu's biggest objection to the Bill was that it would not narrow the apartheid wage gap. But the proposal on disclosure of salaries is a messy compromise. On the one hand, Cosatu is not satisfied because while the amendment proposes disclosure it does not include a mechanism for narrowing the wage gap. On the other hand, for business, which does not yet disclose even the individual pay of directors of listed companies, full disclosure is unthinkable.

Putting these objections aside, the Bill also makes the mistake of assuming it is possible to bargain the wage gap away. But low wages and high salaries are not the simple result of racial discrimination.

In South Africa, as in Europe and the US, the demand for management skills has pushed top managers' pay through the ceiling. Changing that pattern can only come about through a changed and better-skilled labour market.

Disclosure is unlikely to shame companies into paying bosses less and workers more.

# Committee clears way for equity bill

ous" and would discourage foreign investment, place an obligation on employers to "progressively reduce" the wage gap between workers and their bosses.

The amendments call for employers to disclose to government the remuneration packages of all their employees

Labour Minister Shepherd Md-ladlana and his departmental officials met BSA last week to explore whether some common ground could be found. However, Md-ladlana said this week that the parties at the meeting had "agreed to disagree".

Intensive lobbying by the Congress of SA Trade Unions (Cosatu) was a major factor that gave impetus to the government's decision to include the wage differential issue. Cosatu parliamentary lobbyist Neil Coleman applauded the passage of the amendments yesterday.

Coleman said: "We welcome those aspects of the legislation which seek to transform the labour market to benefit the overwhelming majority instead of a tiny minority. However, the wording in its present form, meant to eradicate the apartheid wage gap, is not squarely confronting this legacy."

Cosatu would have preferred that employers "address disproportionate wage differentials in their equity plans".

175  
14/8/98

# Cosatu applauds passage of equity bill

CT(BR)14/8/98 (176)

FRANK NXUMALO  
AND LYNDA LOXTON

Johannesburg — Cosatu yesterday welcomed the passage of the Employment Equity Bill by the labour portfolio committee.

The labour federation in particular praised the clause that compels companies to disclose salaries at all occupational levels in an effort to close the apartheid wage gap.

Voting on the apartheid wage gap clause had been postponed last week following sharp reactions from business. But the bill was passed yesterday without any amendments.

Business South Africa (BSA) said it would call an urgent meeting of its governing body to discuss the issue and what its next steps would be.

Frans Barker, the chief labour negotiator for BSA, said the fact that there had been no amendments to the clause was "relatively small in the bigger scheme of things", which was that "you can't lift the wage earner by pulling down the wage payer".

The bill is expected to sail through the National Assembly on August 20.

The labour federation said: "Cosatu applauds the intention of the legislation to place an obligation on employers to progressively reduce the disproportionate income differentials inherited from the practice and structures of the apartheid labour market."

However, Cosatu said while it fully supported the intention of the clause, it maintained its view that this could "have been expressed more clearly in the

legislation". It warned that if this was not the case, the dispute was not yet over.

Zwelinzima Vavi, Cosatu's deputy secretary general, said: "If ... the bill does not give effect to the intention to place a clear obligation on employers to reduce disproportionate wage differentials in terms of nationally stipulated benchmarks, then Cosatu will seek further amendments to see ... that this intention is captured in a clear and unequivocal way."

Vavi said Cosatu applauded the fact that aspects of the legislation were aimed at ensuring the transformation of the labour market would benefit "millions of ordinary workers through eradication of the inherited apartheid-era wage gap".

□ Business Watch, Page 2

# Controversial labour equity bill set to be in force by October

(176) (176) ARG 15/8/98  
ESTELLE RANDALL

The controversial Employment Equity Bill makes its final journey to becoming law this week when it is considered by the National Assembly.

The debate on Thursday will conclude almost three years of discussions amongst government, business, the unions and other interested groups on how to rectify four decades of apartheid imbalances in the workplace. The bill seeks to implement the constitutional right to equality and the removal of discrimination.

But it is agreed that apartheid bequeathed a legacy of racial imbalance in current occupational and income patterns – the issue is how to correct these imbalances.

One view argues that the market will correct these imbalances naturally. Opposition parties such as the Democratic Party and the National Party have also warned that the bill could “re-racialise” South Africa’s labour market. However, the constitution makes provision for “legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination”.

Business South Africa (BSA) would also like to see less, rather than more state regulation, particularly on the issue of the wage gap engendered by apartheid.

Others, such as the Pan Africanist Congress, would like to see the state lay down specific quotas for correcting racial inequity in employment and to move towards setting a national minimum wage.

The Congress of SA Trade Unions (Cosatu) would like the state to set specific targets for employers to bridge the “apartheid wage gap”.

The bill, in keeping with government policy objectives, tries to balance efficiency with regulation.

From the outset, government has said that rectifying past discriminatory employment practices, including the apartheid wage gap, would require a degree of state regulation together with self-regulation from employers.

At the launch of the bill in November last year, former labour minister Tito Mboweni pointed out: “We cannot undo inequalities simply by outlawing discrimination. Our constitution has already done that. To give practical effect to our constitution we need specific programmes to redress imbalances.”

The Government favours neither a national minimum wage nor a strict compulsion for employers to bargain

around harrowing the apartheid wage gap. But the issue of the wage gap and the need for employers to supply details about salary structure for all employees has been present in discussion documents on employment equity legislation since the 1996 Green Paper. Government’s current proposal does not completely satisfy either Cosatu or BSA.

According to the proposal, companies’ employment equity plans to the department of labour must include a statement of the pay and benefits received in each occupational category and level of the workforce.

Where unnaturally large gaps in income are reflected, employers may reduce these through collective bargaining, compliance with sectoral determinations made in terms of the Basic Conditions of Employment Act and relevant measures in the skills-development legislation.

*Executives in South Africa take home 19 times as much as workers’*

The commission, due to be appointed in terms of the Basic Conditions of Employment Act, will research and investigate appropriate wage gaps and advise the minister of labour on steps to achieve this.

Business fears that disclosing detailed salary information could diminish companies’ competitive edge appear to have been addressed by an agreement that the information is disclosed only to the Employment Conditions Commission.

Minister of Labour Shepherd Mdladlana points out that business and labour would continue to be involved. “They will get another bite at the cherry when the Employment Conditions Commission makes recommendations,” he says.

Brian Allen of the labour consultancy Andrew Levy and Associates points out that the Labour Relations Act provides for employers to make information available that would aid collective bargaining.

A recent study found that South African executives took home 19 times as much as workers. In South Korea the difference is eight, in Japan it is 10 and in Germany it is 11.

But South Africa’s income disparities are not simply a reflection of apartheid discrimination. They also reflect the skills shortage – a problem which the Skills Development Bill seeks to tackle.

Public hearings on this bill start next week, as the Employment Equity Bill makes its final lap of the legislative process. Once approved by the National Assembly, the Employment Equity Bill will go to the National Council of Provinces. It is expected to be signed into law in October.

Star 15/8/98

(176)

# Cosatu's last-ditch attempt to modify Employment Equity Bill fails

By ESTELLE RANDALL

Despite a last-minute attempt by the Congress of SA Trade Unions to force through changes to the Employment Equity Bill, the Government this week stuck to its guns and refused to budge.

At issue was the wording of a new clause the Department of Labour added to the bill to clarify how employers should correct the apartheid wage gap.

According to the proposal, companies'

employment equity plans to the Department of Labour must include a statement of the pay and benefits received in each occupational category and level of the workforce.

Where unnaturally large income differentials are reflected, employers must take measures to reduce these.

The measures may include collective bargaining, compliance with sectoral determinations made in terms of the Basic Conditions of Employment Act,

relevant measures in the skills development legislation, similar measures which are appropriate, or compliance with norms and benchmarks set by the Employment Conditions Commission.

Cosatu believed the minister of labour should be obliged to ensure that employers take the necessary steps to reduce any inconsistent wage gaps. However, the department's wording remained the same, and Parliament's labour committee approved the bill on Thursday.

## Employment equity bill redresses injustices

GODFREY OLIPHANT

THE Employment Equity Bill to be debated in Parliament tomorrow will provide our country with the most comprehensive anti-discriminatory legislation in the world.

It is a practical framework to redress past discrimination in the work place.

The bill helps to ensure that our country's acclaimed constitution is a living document with real consequences in the working lives of real people. No wonder it is broadly welcomed and described by Disabled People SA as "one of the most positive pieces of legislation".

True, the bill's opponents have been vocal. And their chief spokesperson Tony Leon has received disproportionate publicity. At no stage did the government or the ANC claim to have a monopoly on wisdom. The bill is the result of a democratic ethos that included many civil society submissions. It includes proposals by business, trade unions, non-governmental organisations and amendments by its opponents, the NP and the DP.

It does not satisfy everyone, but an inclusive democratic process can almost never achieve that. But it does have the solid support of our broad society and the key role players.

We have to capture in legislation anti-discrimination values, and the rectifying of past injustices in the work place. Apartheid was, after all, introduced through legislation. To think that its injustices would disappear naturally is naive and dishonest.

That is why all business groups support legislation to achieve these goals, and why Busi-

ness SA is on record as saying: "We have faith in the guidance of legislation."

The bill prohibits discrimination against an employee in any policy or practice on grounds of race, gender, pregnancy, marital status, family responsibility, social origin, sexual orientation, age, disability, religion, HIV status, belief, political opinion, culture and language.

This means that everyone will be protected against discrimination by this bill, including Freedom Front MP Pieter Groenewald, who says a previous employer blocked his career progress because he was not a Broederbond.

It is one of the first bills in the world that specifies that no discrimination against HIV sufferers would be allowed. Testing to determine an employee's HIV status is also not permitted unless the Labour Court finds it necessary.

The bill defines family responsibility to include gay and lesbian and unmarried heterosexual relationships.

To redress discrimination, the bill recognises groups, be it

in terms of race, gender or disability. The reason for this is that in this country people were discriminated against because of the groups that they belonged to, not because of the individuals who they were.

The bill requires employers to reduce disproportionate wage gaps. SA, with a 100:1 ratio from top to bottom, has the second largest income gap in the world (Japan 7:1), an apartheid legacy. Equity legislation must aim to eliminate this.

● Godfrey Oliphant is an ANC MP and chairperson of Parliament's Labour Portfolio Committee.

*To (expect)  
apartheid  
injustices to  
disappear  
naturally is naive  
and dishonest*

ET 19/8/98



# Job equity bill's wages clause irks business

AKG 20/8/98

(176)

CLIVE SAWYER  
POLITICAL CORRESPONDENT

For bosses and workers, the final countdown towards a new workplace regime begins today as employment equity legislation enters its final round of legislative hurdles.

Although minority parties are expected to introduce last-minute amendments which will force postponement of voting on the Employment Equity Bill, the National Assembly is expected to approve the

bill tomorrow.

It will then be forwarded to the National Council of Provinces for processing before the end of this year's parliamentary session in November.

The landmark legislation will require companies with 50 or more employees, or whose turnover exceeds R10-million, to implement plans for redressing past discrimination and for closing the wage gap between employers and employees. The provisions for narrowing the wage gap, which will compel employ-

ers to disclose to the Government the salaries of all employees, have infuriated organised business, which says the measure will deter foreign investment.

The Cape Chamber of Commerce and Industry said the wage-gap proposals would expose employers to unions re-opening wage negotiations after the normal bargaining process was concluded.

Chamber president Johann Baard said the wage-gap measure would amount to giving unions a second bite at the cherry "and as such severely

undermine centralised bargaining and bargaining councils".

The wage gap was not as severe as the Congress of SA Trade Unions had claimed, he said.

The gap was larger in the United States and South Africa's wage differential was similar to that of the United Kingdom.

The Democratic Party and National Party yesterday submitted amendments to the bill which will mean it will have to be referred back to the Assembly's labour committee after today's debate.

# Equity bill hits DP, NP roadblocks

FRANK NXUMALO

LABOUR EDITOR

Johannesburg — Voting on the Employment Equity Bill in the National Assembly, originally scheduled for today, was postponed yesterday to tomorrow following the eleventh-hour tabling of amendment motions by the DP and the NP.

Godfrey Oliphant, the chairman of the parliamentary portfolio committee, said the DP wanted the equity law reviewed every five years so that "it was not necessarily permanent legislation". He said the NP was raising the issue of the definition of "black people".

The ANC slammed both parties for "playing childish games with parliament and

irresponsible behaviour".

Oliphant said: "It is hard to believe they are very serious about them (the amendment proposals), as they have never raised issues in the portfolio committee on which they sit.

"They will, however, not be able to deny the country the best anti-discriminatory legislation in the world and a practical framework to redress past discrimination in the workplace for more than 24 hours."

He said it was typical of the parties to slow down the democratic process with "childish games".

Nowethu Mpati, the Cosatu spokesman, said the union group would need time to study the DP amendment proposals before it could respond.

She said Cosatu found the NP

proposal "very interesting".

"Throughout their years of ruling, they (the NP) have always had a definition of black people," Mpati said.

"It's surprising that all of a sudden they do not know who black people are."

Meanwhile, power generation in Mpumalanga and parts of Gauteng could be disrupted today, as hundreds of Roteck Industries workers allied to the National Union of Metalworkers of South Africa (Numsa) and the National Union of Mineworkers down tools to press wage increase demands.

Dumisa Ntuli, the Numsa spokesman, said workers were demanding a 9,5 percent wage increase on a sliding scale and five-worker grade system, while employers had offered 7,3 percent.

ET (MBA) 20/8/98

(176) (1/1)

# Bill to reveal execs' salaries

CT 20/8/98

(176) (466) (478)

**JOVIAL RANTAO**  
PARLIAMENTARY BUREAU

A MAJOR political storm has erupted in parliament after the National and Democratic parties launched 11th-hour action to delay the passage of the controversial Employment Equity Bill.

The bill, which has been amended to require employers to reveal the salaries of executives and to reduce the wage gap, will be referred back to the Portfolio Committee on Labour after today's debate. Voting on the bill is expected to take place tomorrow.

Under the amendments, employers will be required to disclose to government the remuneration packages of all employees.

Cosatu has applauded the planned laws, saying they will "transform the labour market to benefit the overwhelming majority instead of a tiny minority".

But Business South Africa has described the amendment regarding the disclosure of pay as "onerous" and a deterrent to foreign investors. The Cape Chamber of Commerce and Industry also "vigorously opposes" the amendments.

The wage gaps between bosses and workers which the amendments seek to close are large, with Labour department statistics showing that South African managing directors earn 100 times more than the lowest-paid workers.

The NP and DP's move yesterday in filing last-minute technical amendments to the bill has irked the ANC, which has accused them of irresponsible behaviour.

Godfrey Oliphant, ANC MP and chairperson of parliament's Labour Committee, said: "Both the DP and the NP have had months to submit these new amendments during all the different legislative stages.

"It's hard to believe they're serious about it as they have never previously raised these issues."

The proposed amendments — which are largely of a technical nature — included substituting the definition of "black people" with "Africans, coloureds, Indians".

NP labour spokesman Willie Fourie denied his party was using delaying tactics.

DP leader Tony Leon said the amendments had been tabled because those submitted earlier to the committee were rejected before being properly considered.

The controversial bill, once it becomes law, would radically change the lives of millions of South Africans and reshape the workplace.

The bill, which was subjected to thorough discussion at the National Economic Development and Labour Council (Nedlac), is set to be fiercely opposed by the National Party, the Democratic Party and the Freedom Front.

However, the ANC is expected to use its parliamentary majority to push the bill through.

The main objective of the legislation is to put an end to an era

during which white males were preferred and women, blacks and people with disabilities were denied prospects of advancement.

In terms of the legislation, the government would be required to establish a commission for employment equity to enforce the bill.

This would be done through the formation of a labour inspectorate and the office of the director-general in the Department of Labour.

The bill requires companies with 50 or more employees, or whose turnover exceeds a defined limit, to implement plans for redressing past discrimination and for closing the wage gap between bosses and workers.

The Employment Equity Bill also intends to prohibit unfair discrimination in the employment policies and practices and unfair discrimination on the grounds of race, gender, sex, origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language or birth against employees or job applicants.

It would also outlaw medical testing unless justifiable.

Once it becomes law, the bill would require designated employers to prepare and implement employment equity plans after conducting a workforce analysis

and having consulted with unions and employees.

The bill also protects employees from victimisation for exercising rights conferred on them by the legislation.

Incentives offered to companies which comply

with the legislation would include access to state contracts worth R65 billion a year.

On the other hand, companies which fail to eliminate discrimination in the workplace and introduce equal opportunities will face heavy fines and be denied access to lucrative state contracts.

The Democratic Party has charged that the bill may be unconstitutional.

DP leader Tony Leon said yesterday that the bill was out of line with the wording of constitutional provisions on redressing past discrimination.

He said the constitution, in its affirmative action provisions, stated that beneficiaries should be people or categories of people disadvantaged by unfair discrimination.

In contrast, the bill listed black people, women and disabled people as beneficiaries while excluding all others, which the DP regarded as unconstitutional.

Cosatu and the Pan Africanist Congress have welcomed the bill, while the National Party has described it as "reverse racism".

Once approved by the National Assembly, the bill will be debated by the National Council of Provinces (NCOP).

Further amendments can be made by the NCOP before the bill is passed to President Nelson Mandela to be signed into law.

# Opposition challenge to jobs bill

ANC expected to push through Employment Equity Bill despite fierce opposition

By JOVIAL RANTAO  
Cape Town

Proposed last-minute opposition amendments to the Employment Equity Bill will delay the bill's passage by a day, but it is almost certain to be passed by the National Assembly tomorrow.

The National Party and the Democratic Party, which both oppose the bill, yesterday took advantage of Parliament's rules to table amendments that will have to be considered by Parliament's labour committee today. Their effect is to stall the bill, but only by a day.

Although the amendments have no chance of being accepted by the ANC-dominated committee, Parliament's rules lay down that they have to be considered before the bill may be voted on, and passed, by the Assembly, probably tomorrow.

The bill, which is aimed at radically changing the lives of millions of workers, is the

Government's showpiece affirmative action measure.

It has already undergone thorough interrogation at the National Economic Development and Labour Council.

The main objective of the legislation is to put an end to an era where white males were preferred and women, blacks,

## Legislation prohibits unfair discrimination

and people with disabilities were denied prospects of advancement and development.

In terms of the legislation, the Government will establish a Commission for Employment Equity, which would enforce the bill.

This would be done through the formation of a labour inspectorate and the office of the

director-general in the Department of Labour.

The bill requires companies with 50 or more employees, or whose turnover exceeds a defined limit, to implement plans for redressing past discrimination and for closing the wage gap between bosses and workers.

It also intends to prohibit unfair discrimination in employment policies and practices on the grounds of race, gender, sex, origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language or birth.

It would also outlaw medical testing, unless this is deemed as justifiable.

Incentives offered to companies which comply would include access to state contracts worth R65-billion a year. On the other hand, companies which fail to eliminate discrimination in the workplace face heavy fines and would be

denied access to state contracts.

DP leader Tony Leon yesterday said the bill was out of line with the wording of constitutional provisions on redressing past unfair discrimination.

The constitution, in its affirmative action provisions, said beneficiaries should be people or categories of people disadvantaged by unfair discrimination.

By contrast, the bill listed blacks, women and disabled people as beneficiaries, while excluding all others, which was unconstitutional, Leon submitted.

Cosatu and the PAC have welcomed the bill while the NP has described it as "reverse racism".

Once approved by the National Assembly, the bill will be debated by the National Council of Provinces, which could make amendments before passing it to President Nelson Mandela to be signed into law.

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# Affirmative action Bill in its final stages

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AFFIRMATIVE action laws that will radically reshape the South African workplace are set to be passed by Parliament this week, despite opposition by big business and political parties.

The African National Congress, which has steered the Employment Equity Bill through its stormy preliminary stages, is expected to use its parliamentary majority to steamroller the law when it comes before the House of Assembly for vote today.

The Bill seeks to correct the uneven distribution of jobs and incomes created by the apartheid policies of the previous government, and address the employment needs of black people, women and the disabled.

The Bill requires companies with 50 or more employees, or whose turnover exceeds a defined limit, to implement plans for redressing past discrimination and for closing the wage gap between bosses and workers.

During the apartheid era, being white and male was qualification enough for climbing the corporate ladder; being female, black, disabled or

gay meant having to scabble for even the lowest rung.

Business, during the lengthy gestation period of the legislation, has made continual inputs and succeeded in moderating some of the harsher demands of labour, including that specific workforce racial quotas be pre-determined by government.

But while agreeing on the need for some form of affirmative action, business has taken particular exception to amendments introduced last week that place an obligation on employers to "progressively reduce" the wage gap between workers and bosses.

Under the amendments, employers are required to disclose to the Government the remuneration packages of all employees, a requirement which Business South Africa has described as "onerous" and a deterrent to foreign investors.

The Congress of SA Trade Unions has applauded the planned laws, saying they will "transform the labour market to benefit the overwhelming majority instead of a tiny minority". - Sapa-AFP.

# Discrimination out as equity bill gets the nod

75% majority says yes

CLIVE SAWYER  
POLITICAL CORRESPONDENT

ARGT 21/8/98

Labour Minister Shepherd Mdladlana a racist, to be followed in solidarity by his party leader and caucus. (176)

Employment equity laws which ban discrimination against a range of groups, notably on race and gender grounds, and which will force companies to draft equity plans for Government approval, were approved in the National Assembly today by an overwhelming majority.

After a final round of acrimonious debate as parties formally explained their reasons for supporting or opposing the Employment Equity Bill, it was approved by 214 votes to 72.

Parties in favour were the African National Congress, Inkatha Freedom Party and Pan Africanist Congress.

Those against were the National Party, Democratic Party, Freedom Front and African Christian Democratic Party.

Eleventh-hour amendments by the DP were voted down at a meeting last night of the Assembly's portfolio committee on labour.

In yesterday's debate in the Assembly plenary, references to race flew thick and fast. The bill's proponents argued that it would eradicate the inheritance of decades of colonialism and apartheid, where skin colour and gender determined status and pay in the workplace.

Its critics slammed it as doing nothing other than continuing this principle, with merely the roles reversed.

Emotions reached a pitch when the Freedom Front's Pieter Groenewald was ordered to leave the House after refusing to withdraw his labelling of

With his predecessor Tito Mboweni watching from the public gallery, Mr Mdladlana introduced the bill as giving effect to the constitution by setting out specific steps to eliminate unfair discrimination.

The results of a national survey on patterns of employment of people according to race, gender and disability, proved the need for the legislation, said Mr Mdladlana.

"Without national legislation that spells out specific action to transform policies and practices and to engage in planning and implementation of affirmative action measures, employers will do as little or nothing at all."

He urged that employees have maximum participation in drafting equity policies and plans.

NP leader Martinus van Schalkwyk said the bill undermined the constitutional commitment to nonracialism.

The Freedom Front's Mr Groenewald said the bill meant penalising those too pale and too male, and said the ANC had become the new champions of apartheid.

DP leader Tony Leon said the bill did nothing for the poor, marginalised or the rural masses in whose name the ANC claimed to govern.

Nhlahla Zulu of the IFP said it was doubtful it would cause business to emigrate, because there had been wide input on the bill.

Ngila Muendane of the PAC said the crucial difference between the bill and apartheid job reservation laws was that the bill did not seek to displace anyone.

# Equity survey finds companies lack vision

Vuyo Mvoko

BD 21/8/98

CAPE TOWN — A survey on employment equity commissioned by government has found that companies lack vision and leadership and that not enough attention has been paid to the generally inadequate use of resources which have been allocated to achieve equality in the workplace.

However the findings had shown that there were policies in place and employers recognised the need to change, said survey leaders, Canadian labour expert Harish Jain and US human resources expert Angus Bowmaker-Falconer.

Speaking shortly before a National Assembly debate on the Employment

Equity Bill yesterday, Bowmaker-Falconer said that 54% of respondents said they had reviewed comprehensively their employment practices to find barriers to fair employment and development opportunities.

However only 29% of the respondents said they had a written employment equity policy and 31% of the organisations did not evaluate their employment equity progress at all. Only 20% of respondents had established employment equity goals and timetables, a key requirement of the bill.

About 78% had not yet implemented an employment equity committee or consultative forum at all levels of their companies and 84% had not yet established the authority to enforce policy

and apply incentives and penalties.

It appeared some key areas stipulated in the bill were "less likely to be implemented" in cases where internal monitoring took place.

These were organisational culture; the use of psychological tests for recruitment and the assessment of potential; the public availability of information and the use of outside experts to benchmark progress.

The survey said it was necessary for government to provide technical support for employers in the areas of educational and awareness programmes and communication, policy formulation and the development of employ-

Continued on Page 2

## Survey

Continued from Page 1

ment equity plans.

A total of 455 organisations responded to the survey. Government acknowledged that they represented a "sample below that expected of a survey of this nature".

Labour director-general Siphosiso Pityana said it was worth noting that the initiative was the most comprehensive of its kind in SA to date. Pityana said and it was the first time that small and medium-sized companies had participated in a national study on employment equity.

Overall, it was found that large corporate employers which purported to

have comprehensively reviewed barriers to employment equity and affirmative action had in fact made little progress. Smaller to medium-sized enterprises had in fact done better to create representivity in the managerial, professional and skilled-occupational categories.

The National Assembly will vote on the bill today, following a delay caused by the Democratic Party's desire for amendments.

The National Party remains opposed to the bill but has withdrawn its amendments.

The Freedom Front walked out of the house after the officer in the house ruled a comment by MP Pieter Groenewald, which implied the labour minister was racist by promoting a "racist" bill, to be unparliamentary.

BD 21/8/98

# Equity Bill debate evokes storm

KERRY GULLINAN

INTENSE argument over whether the Employment Equity Bill means new opportunities for South Africans or re-introduces apartheid dominated yesterday's emotional debate in the National Assembly.

Introducing the bill, Labour Minister Shepherd Mdladlana said it took the Constitution's stand against discrimination "a step further by stipulating the specific steps to be taken to eliminate unfair discrimination in employment".

Apartheid's negative intervention in the labour market — apparent in the migrant labour system, draconian pass laws and other legislative measures that denied blacks job advancement — made the bill necessary, said Mdladlana.

"For employment equity to be optimally implemented, it is essential that visible leadership is evident at all levels of companies," said Mdladlana, who appealed to employers to establish "a viable business imperative to supplement the moral and legal reasons" for the bill.

However, the National Party, Democratic Party and Freedom Front raised a chorus of protest, claiming that the bill re-introduced racial discrimination. The NP and the DP had tabled last-minute amendments on Wednesday to prevent voting on the bill yesterday. However, it will be voted on today.

The entire FF delegation walked out of Parliament in protest after FF MP Pieter Groenewald was ordered out of the House for refusing to

retract his claim that Mdladlana was a racist.

Before walking out, FF leader Constand Viljoen said the bill would result in "permanent joblessness and poverty for my people".

NP leader Marthinus van Schalkwyk said "skin colour now determines a person's success in life".

"Despite all the semantics and denials, racial quotas will now be forced on companies."

However, the NP withdrew the amendment it had tabled the previous day. The DP did not withdraw its amendments, however.

DP leader Tony Leon described

the bill as a "a pernicious piece of social engineering — pious in intention but destructive in effect".

"It legalises the intrusiveness of a state bureaucracy to determine a range of matters which do not belong to any state ... but to the market forces," he said, adding that he believed it was unconstitutional and would burden business.

ANC MP Phillip Dexter said that the NP, DP and FF were using "tactics similar to the Nazis" to spread fear and loathing among whites.

These tactics, said Dexter, amounted to "swart gearar". "You are afraid of black people. You are afraid that a black person, a

woman or a disabled person can do your job," said Dexter.

The Inkatha Freedom Party's Prince Nhlahla Zulu said the bill was necessary as it prohibited all forms of discrimination, but that his party wanted employers to take note of "regional demographics" when employing black people. Zulu asked that the bill not be implemented in a rigid fashion.

PAC leader Nyila Muendane said the bill did not go far enough, especially in addressing the needs of black women.

The ACDP said that it favoured employment equity, but wanted the bill to be enforced for a short time only. — Parliamentary Bureau

## Fairness in workforce needed

KERRY GULLINAN

MOST South African companies have no idea how to implement employment equity, according to a survey conducted by the Department of Labour.

"No vision is evident," said researcher Angus Bowmaker-Falconer, adding that only 20% of the companies surveyed had an equity plan that had set goals and timetables for addressing racial imbalances in their workforces. Less than a third had a written equity policy.

The survey was based on responses by 455 organisations, despite the fact that 6 000 questionnaires were sent out. Only 23% of these were major

companies.

Bowmaker-Falconer said the poor response could in part be attributed to Business South Africa (BSA). "BSA was concerned about the timing and intentions of the survey, so in this sense they put a spanner in the works."

The sample clearly demonstrated the need for intervention to ensure equity. It revealed that black women constituted a mere one percent and black men five percent of senior management in surveyed companies. In contrast, the lowest categories of workers were 87% black.

"Most employers completely disregard people with disabilities, and they are certainly not consid-

ered in any plans," said Labour Minister Shepherd Mdladlana.

Department consultant Professor Harish Jain of McMaster University in Canada said that unless top management supported equity, it would not work properly.

"If equity is left to the human resources departments, it doesn't work. If line managers are not held responsible in terms of numerical goals and timetables, they have no stake in it. Employment equity is not about denying jobs to those who already have them, but expanding the pool of applicants for new jobs. It is about ensuring that training and recruitment is for all, not just a select group," he said — Parliamentary Bureau.



# Use Equity Bill to transform 'apartheid labour regime'

AG 21/8/98

(176)

The passage of the Employment Equity Bill by the National Assembly is another victory in our struggle to overcome the legacy of racism, gender discrimination and discrimination against disabled people.

The South African Communist Party welcomes this bill as a framework within which equity can be fought for and won.

All South Africans should welcome the measures that are being introduced in the bill, as these will add to the considerable progress being made in transforming our country into a united, non-racial, non-sexist democracy.

Critics of the bill, in the form of white businesses and its pretentious representatives, the National Party and the Democratic Party, have given no reasons other than their own narrow, racist interests.

The criticism that this bill reintroduces race as a category in our society is, in essence, a defence of class and racial interests.

The charge that to introduce measures to deal with the legacy of apartheid racism is "re-racialisation", is



**BLADE NZIMANDE,**  
General Secretary of the SA Communist Party, argues that the Employment Equity bill is a call to action for South African workers

nothing but a new, and disguised form of racism to defend apartheid privileges.

This represents a more sophisticated form of racism in the era of a democratising South Africa.

This demonstrates that the NP and DP are still largely dependent on the defence of racial privileges for their own political survival.

That is why there is now practically no difference between the two parties: instead, the DP is assuming the role of the NP in the post-1994 period.

In fact, opposition to this bill is also an expression of the extent to which it threatens the regime of the capital-

accumulation of the apartheid era for significant sections of the capitalist class.

The SACP is acutely aware that the response to this bill by elements of the old apartheid ruling bloc brings forth very sharply some of the contradictions facing these elements in a democratising South Africa.

While the dominant sections of the white capitalist bloc would like to see the creation of a non-racial capital-

ist South Africa, at the same time the creation of such a society must be at their own behest and not imposed on them.

Opposition to measures such as the Employment Equity Bill further illustrates the extent to which capitalism in South African has been dependent on racism and on gender inequality.

There is indeed a realisation from the dominant sections of the capital-

**'The bill is a significant victory for the working class and previously oppressed'**

ist class that apartheid-type racism is no longer a viable means of maintaining capitalism in South Africa, but at the same time the deracialisation of the South African economy creates new uncertainties for this class and its parasites.

The SACP is under no illusions about the challenges to transform the workplace in South Africa.

The actual implementation of the Employment Equity Bill will require constant militant struggles by organised workers.

This is particularly the case in relation to the closing of the apartheid wage gap.

The bill, in its present form, gives options to employers and the Ministers as to how measures to deal with disproportionate income gaps, should be introduced. But the actual options being chosen and pursued will be a product of protracted struggles.

The capitalist bosses will no doubt

attempt to limit the effects of this bill to the promotion and appointment of women, the disabled and blacks largely to managerial positions.

Clearly the thrust of the bill is in favour of the empowerment of workers in particular and is not intended to create only an elite.

Workers will, as always, have to remain vigilant and consistently mobilise and struggle to ensure that the bill becomes a tool for the transformation of the workplace, for an end to discrimination on the shop-floor, and for a progressive narrowing of the wage gap.

The working class should never forget that capitalism will never finally eradicate racism, gender inequality and the discrimination against the disabled.

The bill is a significant victory for the working class and the previously oppressed, and it is a measure that takes the national democratic revolution forward.

The SACP will ensure that its members - particularly those in the unions - learn to use this important opportunity to speed up the trans-

formation of the workplace.

We will also ensure that through our political work we will continuously educate the workers, women, youth, the unemployed and the poor in general, that lasting and sustainable equity can come only through a society free of capitalist exploitation.

We see no contradiction between this socialist objective and the measures proposed in the bill. In fact, the struggles to implement this bill will magnify most clearly the relationship between discrimination and capitalism. For the SACP, this bill is, therefore, a call to action for workers to engage with the bosses in the various sectors in which they are organised to ensure that this legislation is implemented.

It would indeed be a mistake for the working class, and organised workers in particular, to see this bill as the culmination of the struggles to transform the workplace. Rather, it should be seen as an instrument through which workers' struggles need to be intensified to confront and transform the apartheid labour regime.

## SA leads the world in lighting the way across the racial pay gap

**GLINE SAWYER**  
Political Correspondent

South Africa seems to be leading the way internationally in requiring employers to disclose details of employees' salaries as a means of closing the wage gap.

Making the measure unique is its basis as a means of redressing the apartheid past.

The measure is contained in the Employment Equity Bill, due to be voted on by the National Assembly today.

Congress of SA Trade Unions researcher Kenneth Creamer, while cautioning that he had not gone into

the issue in depth, said he understood transparency had been used elsewhere in the world as a tool to close the wage gap.

In Norway this had enabled comparisons to be made between private sector and public sector earnings.

In the United States a gender-based mechanism for reporting of salaries of women in the public service had been used.

Mr Creamer said although there was some international precedent, South Africa was unique in that the measure was being used to close the apartheid wage gap.

Research had shown that in South Africa there was a wage differential

between the highest and lowest echelons of about 100 to one. Japan, in comparison, had a differential of about seven to one.

One researcher said that practice in South Africa until now had been that balance sheets were not required to indicate salaries of directors - but this was not the case elsewhere.

The Labour Research Service and Naledi, Cosatu's research arm, were unable to provide information on the issue.

Democratic Party researcher Carol Johnson said her investigation of international equity legislation - including that of the United States, United Kingdom and Canada - gov-

erning equity for the disabled and on a gender basis, found no precedent for what was being proposed in the Employment Equity Bill.

Section 27 of the bill says that every employer covered by the legislation will have to submit a statement in a prescribed form on the remuneration and benefits received in each occupational category and level of that employer's workforce.

Where disproportionate income differentials are reflected in the statement, the employer must take measures to progressively reduce such differentials "subject to guidance given by the minister of labour". These measures may include

collective bargaining, compliance with sectoral determinations made by the minister in terms of the Basic Conditions of Employment Act, applying the norms set by the Employment Conditions Commission, relevant measures in skills development legislation, and "other measures appropriate in the circumstances".

The Employment Conditions Commission will have to research norms and benchmarks for proportionate income differentials - the bill's term for the wage gap - and will have to advise the minister on appropriate measures for closing this gap.

The bill specifies in plain terms that the commission will not be

allowed to disclose any information about individual employees or employers.

But a notable exception to this rule will be that parties to collective bargaining will be able to request the information for collective bargaining, subject to rules in the Labour Relations Act.

This week, expressing a view backed by many labour researchers, labour portfolio committee chairman Godfrey Olliphant argued that given the inextricable links between South Africa's racist past and the low wages paid to blacks, special measures were justified to redress the imbalance.

# Dismay at affirmative action pace

(#66) (176)

Survey reveals that companies are slow to address historical disadvantages

Star 21/8/98

SAPA

Cape Town

There was a disturbing lack of progress by the majority of South African companies in implementing employment equity practices, Labour Minister Shepherd Mdladlana said yesterday.

Even where progress had taken place, this had been inadequate, he told a media briefing in Cape Town held to mark the release of a Labour Department employment equity survey, conducted countrywide.

The survey reveals that only 29% of 455 businesses surveyed had established a written general employment equity policy.

It also found that only 20% of respondents had established employment equity goals and timetables, and that most organisations had implemented formal policies and plans only during the past two to three years.

The most important reasons

for implementing employment equity were, among others, to improve employee morale, enhance productivity and political changes in South Africa, and to improve customer service, Mdladlana said.

Labour Department researcher Angus Bowmaker-Falconer said a vast majority of smaller companies appeared to be progressing faster than larger companies in implementing the new affirmative action laws in the workplace.

He said 430 of the 455 respondents had returned a detailed employee breakdown by designated group and occupational category.

Very few of the companies surveyed employed people with disabilities.

The survey indicated that black employees comprised 11% of senior management and 25% of junior management positions.

Black women accounted for 5,7% of junior to middle management positions.

White men and women still account for 73% of all professional workers, Bowmaker-Falconer added.

Mdladlana said that when South African employers were judged against the backdrop of international best practices -

as documented in the report of the United States Equal Employment Opportunity Commission of 1997 - "our situation can only be described as abysmal".

■ The white-dominated Mine-workers' Union (MWU) yesterday

occupied Mdladlana's Cape Town office only hours before he was to introduce the Employment Equity Bill for a debate in the National Assembly.

An MWU statement said the move was part of the union's campaign for fair employment practices, and to force the minister to pay attention to the code of equitable service practices which the MWU recently announced.

An MWU report includes the claim that a million whites could lose their jobs due to affirmative action.

"The problem is that affirmative action was historically seen in the world as a means to protect minorities, while in South Africa it is applied to uplift the majority," the statement said.

Mdladlana said he was disappointed in the manner MWU representatives had "trespassed" in his office to make a last-minute presentation on the bill, but he said he was prepared to meet them.

“  
Compared  
to best  
practices,  
our situation  
is abysmal  
”

# FF walks out of Parliament during fiery debate on equity bill

Star 21/8/98

(176) (176)

By JOVIAL RANTAO  
AND KERRY CULLINAN  
Parliamentary Bureau

Cape Town - An emotional debate on the Employment Equity Bill in the National Assembly ended in a dramatic walkout from the assembly by the Freedom Front yesterday.

FF leader General Constand Viljoen led a walkout after FF MP Pieter Groenewald was

ordered out of the House for refusing to withdraw a remark that Labour Minister Shepherd Mdladlana was racist.

Earlier, members of the whites-only Mineworkers' Union staged a sit-in at Mdladlana's office in protest against "racist legislation".

Opposition parties have used all tricks in the book to delay the passing of the bill, which has been delayed until today.

The ANC chief whip has called on all ANC MPs to attend to ensure a full majority.

In the National Assembly debate, racial references flew thick and fast during the intense argument over whether the bill meant a new opportunity for South Africans or reintroduced apartheid.

Mdladlana said the bill took the constitution's stand against discrimination a step further

by stipulating the specific steps to be taken to eliminate unfair discrimination in employment.

Apartheid's negative intervention in the labour market - apparent in the migrant labour system, draconian pass laws and other legislation that denied blacks job advancement - made the bill necessary.

► More reports

... Page 5 and 13

Today the ANC is expected to use its parliamentary majority to push through the National Assembly the Employment Equity Bill, which seeks to correct the uneven distribution of jobs and incomes created by the apartheid policies of the previous government. Political Correspondent Jovial Rantao reports

# A new dawn for workers

Star 21/8/98

(176)



DEBBIE YAZBEK

The Employment Equity Bill, popularly or notoriously known as affirmative action legislation, forms the nucleus of the Labour Ministry and the Government's plan to radically transform the workplace and the South African society. Ever since its introduction in March this year, controversy has been the bill's second name and the debating arena its second home. Provisions contained in the bill, together with those in the Basic Conditions of Employment Act and the Skills Development bill, will fundamentally change what most working South Africans do for eight hours, five days a week.

The Employment Equity bill, the Government has argued, is meant to put an end to an era where white males were preferred and women, blacks, and people with disabilities were denied prospects of advancement and development. Opposition parties, in particular the National Party, the Democratic Party and the Freedom Front, have fiercely opposed the legislation as reverse racism.

The NP has claimed that the bill would re-racialise the workforce, have a negative impact on job creation and strain economic growth. The DP believes that the bill makes bad economic sense.

"It is not only discriminatory, but so sweeping in its compass that it will cover many small businesses with high turnovers, such as the so-called mom-and-pop café and the petrol station on the corner," said DP leader Tony Leon.

- 92% of all senior managers were white.
- Africans made up only 6% of all managers.
- Women made up 14% of all managers (77% of these being white women).

Former labour minister Tito Mboweni, who pioneered the legislation before leaving government for the Reserve Bank, said discrimination against women, and people with disabilities affected their motivation and commitment and had negative effects for productivity and the country's economic growth.

"As a result the bigger loser from discrimination and denial of equal opportunities, in the long run, is South Africa itself," he said.

In terms of the legislation, the Government would be required to establish a Commission for Employment Equity which would enforce the law. This would be done through the formation of a labour inspectorate and the office of the director-general in the department of labour.

The bill went to the National Assembly with major changes, including a clause which requires that employers should validate their psychometric testing and take measures to ensure that such testing was not biased against members of designated groups.

The definition of employer in the draft legislation has been broadened. Employers who were supposed to prepare equality plans, implement them and report on their progress were no longer defined simply on the basis of employing 50

employees or more, but the turnover of the employer has now been incorporated and defined in terms of the Small Business Act.

The third change means that the Commission for Conciliation, Mediation and Arbitration would no longer be involved in handling the enforcement of the provisions of the equity legislation. The disputes would be handled by labour inspectors and the director-general.

Incentives offered by the legislation to companies which comply would include access to state contracts worth R65-billion per annum. On the other hand, companies which fail to eliminate discrimination in the workplace and introduce equal opportunities will face heavy fines and will be denied access to the lucrative state contracts.

The process that was adopted in the development of the bill was most extensive and participative. It took two years since (1995) Mboweni established the Affirmative Action Policy Development Forum. This was a forum of key social partners, including some non-governmental organisations that have an interest in the area of employment equity.

Some labour analysts have, however, warned that the three pieces of labour legislation were too sophisticated for an economy of a developing country such as South Africa.

Next stop for the Employment Equity bill will be the National Council of Provinces, which could make amendments before passing it to President Mandela to be signed into law.

Hopeful ... in the past people with disabilities were discriminated against but all that will change once the new bill is signed and approved by President Mandela.

Two other key stakeholders - business and labour - were co-architects of the bill as they were involved in its development through the National Economic Development and Labour Council (Nedlac). Despite differences, both business

and labour have been supportive of the legislation. Cosatu's main gripe has been that the bill does not give effect to the intention to place a clear obligation on employers to reduce disproportionate wage differences in terms of

nationally stipulated benchmarks. But, does South Africa need affirmative action legislation? To support its case, the Government has cited two key labour market studies, the Presidential Commission on the Re-

structuring of the South African Labour Market and the International Labour Organisation which arrived at the same conclusion with respect to the gross and very deep racial and gender differentials in the South African workplace.

A recent study by the Breakwater Monitor showed that:

- 87% of all management in the private sector was still white.
- 93% of all executive managers were white.

# Real consequences for real people

BY GODFREY OLIPHANT

**T**he Employment Equity Bill will provide our country with the most comprehensive anti-discriminatory legislation in the world and a practical framework to redress past discrimination in the workplace.

The bill helps to ensure that our country's acclaimed constitution is a living document with real consequences in the working lives of real people.

No wonder it is broadly welcomed and described by Disabled People South Africa, for instance, as "one of the most positive pieces of legislation to be tabled".

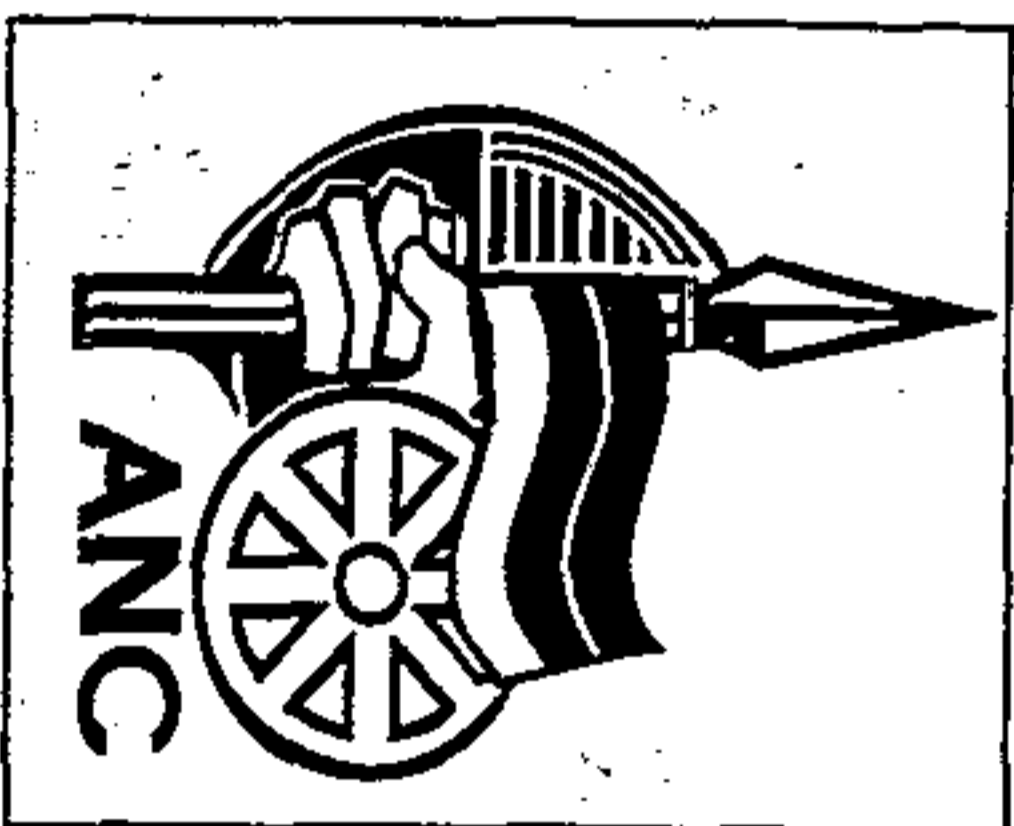
True, the bill's opponents have been vocal and their chief spokesperson Tony Leon has received publicity totally out of proportion to support for his ideas or their moral and intellectual substance.

But this bill represents the collective effort of representatives of the entire nation. At no stage did the Government or the ANC claim to have a monopoly on wisdom. The bill is the result of a democratic ethos that saw many submissions by civil society taken on board.

It includes proposals by business, trade unions, non-governmental organisations and amendments by its opponents, the NP and the DP.

It does not satisfy everyone or perhaps even anyone 100%, for an inclusive democratic process can almost never achieve that. But it does have the solid support of our broad society and key role players.

We have to capture anti-discrimination values and the rectifying of past injustices in the work place in legislation. Apartheid was, after all, intro-



21/8/98 Kwa (FV)  
WHAT THE ANC SAYS

duced through legislation. To think that its injustices would disappear naturally is naive and dishonest.

That is why all business groups support legislation to achieve these goals and why Business SA is on record as saying: "We have faith in the guidance of legislation."

The bill prohibits discrimination against an employee in any policy or practice on grounds of race, gender, pregnancy, marital status, family responsibility, social origin, sexual orientation, age, disability, religion, HIV status, belief, political opinion, culture and language. This means that everyone, including Freedom Front MP Pieter Groenewald who says that a previous employer blocked his career progress be-

cause he was not a Broederbond member, will be protected against discrimination.

You can't redress past injustices if you deny history. The bill therefore recognises groups in order to provide an effective framework to, among other things, deracialise our society.

The bill also requires employers to reduce disproportionate wage gaps. This is done because it recognises the dual nature of South Africa's racist history whereby blacks received starvation pay and whites were guaranteed "civilised" wages.

No wonder South Africa, with a 100 to 1 ratio from top to bottom, has the second largest income differential in the world. Compare this with Japan's 7 to 1 ratio. The wage gap is the result of this country's racist history. Any legislation that is serious about achieving equity must aim to eliminate this.

■ *Godfrey Oliphant is an ANC MP and chairperson of Parliament's Portfolio Committee on Labour*

# Entrenching reverse discrimination

BY WILLIE FOURIE

Straw 2/18/98

(198)

The National Party supports the basic principles of the Employment Equity bill, but rejects any form of discrimination contained in the legislation.

The NP is aware of the imbalances of the past and does support the elimination of unfair discrimination in the labour market and the creation of equal opportunities in order to address these imbalances.

We cannot, however, support the slightest attempt to entrench reverse discrimination as contained in this bill. In its current form it will, apart from the obvious economic cost of implementing it, carry social costs for South Africa that are impossible to quantify.

The bill requires racial classification, racial preferences and accompanying racial discrimination. In a country already deeply divided along racial lines, the bill will foster racial consciousness and increase racial tensions. It seems that the bill is based

## WHAT THE NP SAYS



on the point of departure that no empowerment is taking place, whether generally or in respect of vertical mobility within businesses. This seems to be the reason for the statutory intervention to achieve these objectives.

The reality, however, is that most companies in South Africa have already implemented measures, due to simple business logic, to achieve the same objectives as the bill.

The greatest inequality in South Africa is also no longer between black and white, but between the employed and the jobless, running at a ratio of 29:1.

Government intervention in the market through this bill will slow the process of greater racial equality, rather than ac-

celerate it, and in the process hamper economic growth, discourage investment and reduce economic growth.

It is for these reasons that the National Party strongly objects to the re-racialising of the workforce through this bill.

At present, according to the latest statistics of the Central Statistical Services approximately 300 jobs are lost in the formal sector of the economy every day.

We believe that the bill will have a further negative impact on the creation of jobs in SA as it renders the labour market even more rigid.

Apart from the obvious levels of higher unemployment this will engender, it will impact on the concomitant worsening of the crime situation.

The National Party believes that any labour legislation being contemplated should be premised on the idea of bringing about an increase in the demand for labour and not causing a reduction in demand.

This bill is very likely, through the increased costs it will generate, especially for small businesses, to provide a considerable disincentive to offering employment.

Furthermore, the legal costs of defending claims and disputes (even if successfully defended) or the award of compensatory damage could place especially small businesses under crippling financial strain.

This is an ironic reality in a country where entrepreneurship is touted as one of our biggest solutions to curb the growing numbers of jobless.

In seeking to depict this bill as bland in its provisions and beneficial in its consequences, the Government does the many millions who are poor and unemployed a grave disservice.

Willie Fourie in a National Party MP

# Employment equity progressing slowly

(176)  
Sowetan 21/8/98

SOUTH African companies are displaying a disturbing lack of progress in implementing employment equity practices, Labour Minister Mr Shepard Mdladlana said yesterday.

Mdladlana made the comments during a media briefing in Cape Town to mark the release of a Labour Ministry employment survey.

The nationwide survey revealed that only 29 percent of the 455 businesses examined had established a written employment equity policy.

It also found that only 20 percent of respondents had established employment equity goals and timetables.

"There can be no room for further delay in addressing this abhorrent state of affairs," Mdladlana said.

The most important reasons for implementing employment equity policies were to improve employee morale and enhance productivity, he said.

Labour researcher Mr Angus Bowmaker-Falconer said smaller companies appeared to be progressing faster than larger companies in implementing the new affirmative action laws.

He said 430 of the 455 respondents had returned a detailed employee breakdown by designated group and occupational category.

Very few of the companies surveyed employed persons with disabilities, he said.

Black employees comprise 11 percent of senior management and 25

percent of junior management posts, according to the survey.

White men and women still accounted for 73 percent of all professional workers, Bowmaker-Falconer said.

Black women accounted for 5,7 percent of junior to middle management positions.

Mdladlana said that when South African employers were judged against the backdrop of international best practices — as documented in the 1997 report by the United States Equal Employment Opportunity Commission — "our situation can only be described as abysmal."

The report claims that one million whites could lose their jobs due to affirmative action. — Sapa.

# Stormy passage for Equity Bill

## Unhappy NP calls it discriminatory and says its measures constitute 'neo-apartheid'

ESTELLE RANDALL

The Employment Equity Bill was approved by the National Assembly this week by a majority of 714 votes to 72 in spite of a last-minute attempt by opposition parties to delay the legislation.

The bill now proceeds to the National Council of Provinces for verification before being signed into law.

The National Assembly was due to vote on the bill on Thursday but the Democratic Party and the National Party stalled its passage when they tabled last-minute amendments.

The NP withdrew its amendment but its leader, Marthinus van Schalkwyk, said the bill was discriminatory and that it constituted "neo-apartheid". He cited extracts from a speech by

South African Breweries (SAB) acting chairman Cyril Ramaphosa to justify the NP's belief that the bill would jeopardise economic growth and job creation.

Mr Ramaphosa said in the 1998 SAB annual report: "The recent procession of labour enactments promulgated... certainly have positive aspects that are unduly prescriptive, let alone cost-burdensome."

"Failure to find an appropriate balance could well act to the detriment of both job preservation and job creation, right across the business spectrum."

Meanwhile, a study commissioned by the Department of Labour has found that most South African companies have no idea how to implement employment equity. According to researcher Angus



RESERVATIONS: Cyril Ramaphosa

Bowmaker-Falconer, only 20% of the companies surveyed had an equity plan which had set down goals and timetables for addressing racial imbalances in their work.



STALLED: Marthinus van Schalkwyk

Fewer than a third had a written equity policy. He said the study clearly demonstrated the need for intervention to

*(178) ALL 22/8/98*



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AGAINST ✗

ensure workplace equity. It revealed that African women constituted a mere 1% and African men 5% of senior management in the surveyed companies.

In contrast, the lowest categories of workers were 87% African.

The bill aims to achieve fairness in employment and to correct discriminatory employment practices which disadvantaged black people, women and the disabled.

It compels employers to adopt employment policies and practices which do not unfairly discriminate on the basis of race, sex, disability, pregnancy, marital status, ethnic or social origin, sexual orientation, political opinion, culture, language, religion or belief.

Firms with 50 or more employees, or whose annual turnover is more than that set for a small business in terms of the National Small Business Act, will have to prepare and carry out employment equity plans. Their equity plans must also include a statement of the pay and

benefits received in each occupational category and level of the workforce.

Where there are unacceptably large gaps in income, employers must take measures to reduce these progressively.

The commission, to be appointed in terms of the Basic Conditions of Employment Act, will research and investigate appropriate wage gaps and advise the Minister of Labour on how to achieve these.

The commission will not be empowered to publicise individual company information about salaries. Employers who comply with the provisions will be able to tender for Government contracts. However, those guilty of contraventions face fines ranging from R500 000 to a maximum of R900 000.



# State knuckles down to enforce labour equity

ST(BT) 23/8/98

Study shows lack of progress in implementing equitable labour practice, goals and timetables, writes THABO KOBOKOANE

**G**OVERNMENT is to spend about R150-million over the next five years enforcing the new employment equity law.

A study, commissioned by the Department of Labour, showed that only 29% of 455 businesses surveyed had established employment equity policies while only 20% had established equity goals and timetables.

The study also found that most organisations had implemented only formal policies and plans during the past two years. Even where there had been progress, this had been inadequate.

"There can be no room for further delays in addressing this abhorrent state of affairs," said Labour Minister Shepherd Mdladlana as he prepared to table the Employment Equity Bill in Parliament on Thursday.

The law, passed by Parliament on Friday despite Democratic Party and National Party objections, will compel businesses employing 50 or more people and with annual turnover of more than R10-million to submit within 18 months employment equity plans outlining methods to remove discrimination and ensure the creation of a more diverse and representative labour force.

Controversial last-minute amendments oblige employers to "progressively reduce" the wage gap between workers and bosses and disclose to government the remuneration packages of all employees.

The Labour Department is creating capacity to ensure key aspects of the law are implemented.

Labour director-general Siphon Pityana says the department is looking at ways of revamping the employment equity directorate; improving staffing at national and provincial levels; and en-

hancing capacity at its head office. About R28-million has already been allocated in next year's departmental budget to provide for the initial enforcement infrastructure and employment labour inspectors.

If the study is to be believed, the department has a tough job ahead of it in monitoring and enforcing compliance.

The study of 455 organisations with 173 828 employees reveals the extent of employment equity problems.

While 6 000 organisations were targeted, only 455 responded. Of those responding, only 430 provided detailed employee profile analyses by designated group and occupational categories.

The results of this survey are in line with studies in the past few years, suggesting that affirmative action is stuttering.

Only 11% of senior management are black, while a further 25% are in junior and middle management positions.

The position of black women is worse, accounting for only 1% of senior management and 5.7% of junior to middle management positions.

White men and women still constitute 73% of all professional workers, and African men and women 87% of all labourers. "When SA employers are judged against the backdrop of international best practice, our situation can only be described as abysmal," says Mdladlana.

A major surprise in the survey is the finding that a majority of smaller companies appear to be progressing faster than larger companies in implementing affirmative action laws.

"Large corporate employers, many of whom have been involved in affirmative action and employment equity initiatives for some time, appear to have made little progress," says the report.

*'When judged against international best practice, our situation can only be described as abysmal'*

# Clauses in act and bill at odds, says labour lawyer

Reneé Grawitzky

FUNDAMENTAL contradictions existed between the provisions in the Employment Equity Bill requiring employers to report on income differentials and provisions in the Labour Relations Act relating to information disclosure, a leading labour lawyer said yesterday.

The introduction of this provision, — to reduce wage differentials — could infringe on the right to free collective bargaining by allowing ministerial intrusion in the collective bargaining process between employers and employee bodies.

"No-one is denying that disproportionate differentials exist, the question is how we deal with this", he said.

The lawyer's concern follows the passage of the bill through the National Assembly last week amid heated reaction from various political parties.

The amended clause, aimed at facilitating reduction of wage differentials, will require employers to submit a statement to the Employment Commission on wages and benefits in each job category. This statement should be submitted with the employers' report on employment equity plans.

Where "disproportionate income differentials are reflected in the statement", an employer will need to take steps to progressively reduce such differentials" on the basis of guidelines provided by the commission.

The commission is being set up in line with the Basic Conditions of Employment Act. Mechanisms to reduce differentials could be achieved by collective bargaining, compliance with sectoral determinations, measures contained in the proposed Skills Development Bill or through the application of "norms and benchmarks" set by the commission.

The commission will be required to conduct research and investigate "norms and benchmarks for proportionate income differentials" and to advise the minister on appropriate steps to reduce such differentials.

These norms will have to be taken into account by bargaining councils in wage talks.

Another labour lawyer said consideration had to be given to circumstances where disproportionate differentials were justifiable. Examples of this were cases where a company recruited external skills or recruited black personnel at a premium as part of affirmative action.

# AFTER ALL THE DEBATE, IT'S STILL ABOUT RACE (176) (120)

Poles draw apart over affirmative action

**O**f all the laws passed in the current parliamentary session, none casts a longer shadow than the Employment Equity Bill. Designed to give substance to a constitutional requirement to uproot workplace discrimination, it seeks to quantify this through a criminalisation of certain practices and of those employers who appear impervious to the new political order.

Whether the process of "consultation" — in parliamentary committees and the National



Economic Development and Labour Council — was too narrow has become moot, judging by the tenor of the debate on employment equity in

» Just as in the apartheid era, skin colour will now determine, once again, a person's success in life and not merit, skill or ability . . . This is the ANC's version of job reservation «  
Marthinus van Schalkwyk

PM 4/9/98

the Assembly. The issue of the Bill's constitutionality is also surprisingly peripheral. The parties have treated the legislation less as a technical mechanism for alleviating an agreed wrong than as an issue at the heart of our reluctantly transforming society: race.

The official, if unrevised, transcript of the August debate on the Bill brings this ugly fact to the fore. In particular, the bitter grievances aired in the Assembly predict an election marred by racist rhetoric.

The fact that Constand Viljoen led the Freedom Front out of the chamber in protest indicates that conservative Afrikaners feel themselves steamrollered by the ANC majority, and fear social and economic marginalisation.

As new Labour Minister, Shepherd Mdladlana — paying due thanks to his predecessor Tito Mboweni — initially placed the emphasis on the Bill's technical capacity to address the "specific steps to be taken to eliminate the legacy of unfair discrimination . . . The groups that suffered the full brunt of discrimination and its effects are clearly identified." These are blacks, women and the disabled — a controversial ranking.

Soon, however, Mdladlana sounded a running theme that eventually led to extreme acrimony in the House. He asked MPs to "remember the evolution of po-

litical parties in SA, from the United Party of the segregationist era to the Progressive Party and the Democratic Party (DP). This is why the DP finds itself in agreement with the National Party (NP) and Freedom Front in opposing this Bill."

Thus Mdladlana merged the DP and the NP into a perceived bloc of opposition, not just to the practicalities of the Bill — but to its principle of nonracialism. While DP leader Tony Leon seethed and waited his turn, the NP's Marthinus van Schalkwyk took the bait — and floundered.

He did not merely point to the real problems companies and corporations will encounter in drawing up employment equity plans. He argued that, "just as in the apartheid era, skin colour will now determine, once again, a person's success in life and not merit, skill or ability . . . This is the ANC's version of job



» Remember the evolution of political parties in SA from the United Party of the segregationist era to the Progressive Party and the DP. This is why the DP finds itself in agreement with the NP and Freedom Front in opposing this bill «  
Shepherd Mdladlana

reservation."

For the NP to raise such an argument is, of course, absurd; its supporters have not verifiably made the leap towards the acceptance of nondiscrimination that Van Schalkwyk may have achieved. Further, he was made to look deeply unsure when sarcastically asked by Mluleki George (ANC) whether he believed in "the deracialisation of this country, the problem which they (the NP) created over 48 years". Van Schalkwyk weakly responded: "We are committed to that principle."

Parliamentary labour committee chairman Godfrey Oliphant (ANC) sneered: "He has a short memory . . . (if he) goes to the shopfloor today, the shopfloor is black and the boardrooms are white. That is the reality of SA. The shacks are black and Sandton is white."

Prince Elijah Zulu (Inkatha Freedom

Party) echoed this vision of a continuing racial divide: "During the public hearings there were calls for a sunset clause to be put in this Bill, and I think those calls were unfortunate to the millions of black people who have suffered employment discrimination for about 350 years. A call for a sunset clause is implicitly a call to prolong the suffering . . ."

What was now under debate was not the strengths or weaknesses of a particular law, but on which side one stood in the great historical-racial divide. By the time the DP's Leon attempted to make substantive points about the problems of structuring racial quotas and audits — saying they ignored "economic reality" —

the ANC was in no mood to listen.

He quoted President Nelson Mandela (from a 1991 speech) as saying "we are not asking for handouts for anyone, nor are we saying that just as a white skin was a passport to privilege in the past, so a black skin should be the basis of privilege in the future". But this appeal to the ANC tradition of nonracialism was futile.

Thus, Phillip Dexter (ANC) again lumped the NP and DP together, saying that their "vision of heaven . . . is one where everyone except the racistocracy keep their mouths shut and do as they are told. Well, it is not going to be like that anymore, and they had better get used to it. This Bill is going to change that."

Clearly, therefore, as its critics charge, the equity law is designed to be coercive. To the extent that organised business deluded itself into believing that the requirements of the Bill were to be obeyed "in principle", rather than to the letter, it was wrong. It embodies a profoundly felt "us against them", "poor vs rich" ethos.

The Bill marks the ANC's first major attempt at social engineering. That such attempts have a record of failure is irrelevant, since opposition will place recalcitrants within Dexter's "racistocracy", a term almost scientifically designed to feed the rage of those who believe themselves the continuing victims of apartheid.

Peter Wilhelm

# All you ever wanted to know about the Employment Equity Bill and how it works

By ESTELLE RANDALL

The Employment Equity Bill will be written into law this year, bringing to a conclusion almost three years of discussions among the Government, business, the unions and other interest groups on how to correct four decades of workplace imbalances.

But what will the new law mean for both employers and employees? These are frequently asked questions:

1. Why do we need a law on employment equity?

Four years after SA's first democratic election and the adoption of a new constitution (which forbids discrimination), black people, women and the disabled are still being discriminated against in the workplace. This is reflected in the small proportion of top or professional positions they occupy in the corporate world in spite of their large numbers.

A study this year of 455 companies shows white men and women still account for 73% of all professional workers and occupy most management positions. In contrast, black (African, coloured and Indian) men and women, who make up 82% of the economically active population, occupy 84% of all temporary and casual positions. They comprise only 11% of senior management and 25% of junior and middle management.

Women comprise 10% of senior management and 25% of junior and middle management but black women (African, coloured and Indian) comprise only 5.7% of junior and middle management.

2. What does the new law aim to do?

The new law seeks to correct these kinds of imbalances over time. The legislation aims to achieve fairness in employment and to correct employment practices which disadvantaged black people (African, coloured and Indian), women and disabled people. Studies show that more equitable use of human resources will have positive spinoffs for efficiency, productivity and competitiveness.

The new law compels employers to adopt employment policies and practices which do not unfairly discriminate on the basis of race, sex, disability, pregnancy, marital status, ethnic or social origin, sexual orientation, political opinion, culture, language, religion or belief.

Employers will also have to justify why employees should undergo medical tests, including tests for HIV, or psychometric tests.

3. Which companies are affected?

Companies with 50 or more employees or whose annual turnover is higher than certain thresholds in each sector (set out in the National Small Business Act) will have to prepare and carry out employment equity plans and submit these to the Department of Labour. Companies with fewer than 150 employees must submit their first plan within a year of the passage of the bill, and thereafter every two years.

Those with more than 150 employees must submit their first plan within six months, and thereafter every year. They must be negotiated within companies, enabling employers and employees to take their specific circumstances into account. They must give details on how the company will correct imbalances and over what period.

4. What information must be in the reports sent to the Department of Labour?

The employment equity plans must contain information about how many black people (Africans, coloureds and Indians), women and disabled people are currently in each occupational category and level of the workforce. There must also be a statement of the pay and benefits received in each occupational category and level of the workforce.

5. What happens if there are unnaturally large gaps in pay and benefits?

Where this happens, employers must reduce these through collective bargaining, compliance with sectoral determinations made in terms of the Basic Conditions of Employment Act, relevant measures in pending skills

development legislation, similar measures which are appropriate, or compliance with norms and benchmarks set by the Employment Conditions Commission. The commission, to be appointed in terms of the Basic Conditions of Employment Act, will research and investigate appropriate wage gaps and advise the minister of labour on steps to achieve this.

6. Why should companies have to disclose their pay structure?

The King Commission of Inquiry into Corporate Governance has already recommended that listed companies and parastatals include aggregate figures of directors' earnings and benefits in their annual reports.

Companies accepted this as a valid means for the public to assess whether directors' earnings were in keeping with company performance. The Labour Relations Act of 1996 already provides for employers to make information available that would aid collective bargaining.

The pay and benefits information which the Employment Equity Act requires from companies will be disclosed only to the Employment Conditions Commission. The commission will not publicise individual companies' pay structures, only trends.

Estimates say that, in general, SA's income distribution is among the most unequal in the world. Here 20% of low-income earners capture only 1.5% of national income while the wealthiest 10% capture 50%.

Results of a recent study by international consultants Towers Perrin found that SA executives take home 19 times as much as shopfloor workers. In South Korea the difference is eight, in Japan 10 and in Germany 11.

7. What happens if a company complies with the new law?

Employers who comply with the provisions of the employment equity legislation will be able to tender for government contracts.

8. What happens to those who do not comply?

Those guilty of contraventions face

fining up to a maximum of R900 000

9. What is currently happening with employment equity in SA?

Studies conducted this year for the Department of Labour by the Breakwater Monitor show that only 20% of the companies surveyed had an equity plan with goals and timetables for addressing racial imbalances in their workforce. Less than a third had a written equity policy. Although larger companies were more likely to have an employment equity plan, this did not translate into any significant difference in terms of representation of black people, women and the disabled in managerial and professional categories. Companies with between 100 and 499 employees had the highest representation of these groups in managerial and professional positions, although the numbers were still low. There was also no difference by economic sector.

10. How does SA compare with other countries?

South Africa's employment equity law is similar to laws in several other countries. In the US, employment equity legislation applies to companies with 50 employees or more or whose annual turnover is \$50 000 or more. Those that want to secure contracts to supply goods and services to the federal government must commit themselves to a five-year employment equity plan. Such contracts can be cancelled if the government finds that a company has reneged on its stated plan during the term of the contract. In Canada, companies of 100 or more employees must publish details of the pay and benefits in each occupational category, as part of their employment equity plans.

SA's Employment Equity Bill has limited individual company information about salaries to the Employment Conditions Commission.

11. Who should I contact for more information?

The Department of Labour's equal opportunities directorate can be telephoned in Pretoria at (012) 309-4040.

# Employment Equity Bill heading for Mandela's desk

## PARLIAMENTARY BUREAU

CONTROVERSIAL affirmative action legislation — the Employment Equity Bill — was passed by the National Council of Provinces yesterday. It now requires only President Nelson Mandela's signature to become law.

The legislation was passed by 35 votes to 12, with the ANC and the Inkatha Freedom Party supporting the bill and the National

Party and Democratic Party opposed. The Freedom Front staged a walkout to express its disapproval.

Opposition parties complained that the bill's measures amount to reverse discrimination.

The Freedom Front implied that the legislation could spark violent resistance. Ben van der Walt of the FF said the bill discriminated against white males.

"There is no indication that

the bill is intended to benefit only the historically disadvantaged. This is a punitive measure towards white males," he said. "There is no sunset clause in the bill to indicate when this draconian bill will be taken off the statute books and sent to archives where it belongs."

He said Sri Lanka was a good example of where an affirmative action policy had gone wrong because it had not been reached with the consensus of all ethnic

groups. The policy had prompted young Tamils to take up arms and call for an independent state. "Will this happen in South Africa? Only the future will tell."

Labour Minister Shepherd Mdladlana rejected allegations that the bill was unconstitutional and said those who opposed the measures wanted to entrench their apartheid privileges. He said a large-scale implementation campaign for the new law had been planned.

(176) 9/9/98

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## Affirmative action law gets the NCOP nod

Controversial affirmative action legislation - the Employment Equity Bill - is on its way to becoming law. (176)

The bill now awaits President Mandela's signature after it was passed by the National Council of Provinces with an objection from the National Party, the Freedom Front and the Democratic Party.

The legislation was passed with 35 votes from the ANC and the Inkatha Freedom Party.

As was the case when the bill went through the National Assembly, opposition political parties objected that provisions contained in the bill amounted to reverse legislation. The Freedom Front warned that the legislation could spark a violent resistance.

An NP delegate said the Employment Equity Bill was "indefensible and will be judged by history in the same way as apartheid".

Advocate Ben van der Walt of the Freedom Front - whose members staged a walkout after the speech - said the act was abhorrent in its discrimination against white males.

# Equity Bill prompts KWV to offer a hand to wine industry's disabled employees

ARG 12/9/98

~~SUN~~ WINE (176)

LINDA DANIELS

KWV, which represents most of the Western Cape's wine farmers, is taking the Equity Bill to heart, making its premises more accessible to its disabled employees.

The Equity Bill covers the needs of disabled people in the workplace and seeks to eliminate race and gender imbalances.

KWV, which is based in Paarl and currently employs six disabled people, has called on the services of the National Environmental and Accessibility Programme (NEAP) to do a workplace evaluation.

Nosey Pieterse, a KWV industrial relations specialist, said: "No companies we contacted did anything. We were frustrated. We are the pioneers - there is so much other companies can learn from us."

When the KWV received the results of the NEAP audit, it was amazed at the changes required on the premises.

"They actually alerted us to how blind and

deaf we were. For example, we have sirens, but deaf people will not be able to hear them," Mr Pieterse said.

The KWV's Henry Hopkins said: "We were quite amazed at the number of refinements we had to make. But it was done from our side - it was our initiative."

He said KWV's tourist facility had for some years been accessible to the disabled, "but we must obviously look further now".

KWV said it will improve parking bays, access paths, passages and stairs to make them convenient for people in wheelchairs.

Lift buttons will be lowered so wheelchair-bound employees can reach them.

The KWV will also restructure its toilets to accommodate wheelchairs.

Following the first workplace evaluation by NEAP, another report will be compiled by the Institute of the Blind and the Deaf next week. The institute will sort out problems such as how deaf workers notice sirens. KWV may install flashing lights instead.

## NEWS

# Affirmative action 'subverted'

(176) ET 16/9/98

ESTABLISHED contractors are subverting the "noble intentions" of the Department of Public Works' affirmative procurement policy, department deputy director-general Sivi Gounden said yesterday.

Speaking at a workshop here, he said the department has accumulated enough data and understanding of the forces at play to tighten up its policies where there is incontrovertible evidence that its affirmative action goals are being defeated.

Gounden reported that joint ventures between established contractors and black contractors in public-sector procurement — supplying the state with assets such as buildings, goods or services — have not been echoed in the private sector.

Established contractors tend to go it alone on private-sector projects, where — for the moment — there are no mandatory requirements or goals for affirmative action.

In addition, while legal agreements on joint ventures have been presented to the department, it has discovered that in some cases these agreements were overridden by others, which black contractors were forced to sign.

These agreements involved paying the contractors to limit their involvement in, or stay out of, construction projects.

"The department has evidence of this in several instances," Gounden said.

Although there has been a clear increase in participation by "affirmable business enterprises" since the policy came into force in 1996, none of them are acting as prime contractors in projects worth more than R2 million.

Black contractors with the capacity to act as prime contractors prefer to enter into joint venture agreements with larger established contractors on major projects, according to Gounden.

"This phenomenon has to be

corrected if the state is committed to deracialising the construction industry."

The department will in future give preference to black contractors wishing to become prime contractors on large public works contracts.

Outsourcing will be regulated to ensure that the bulk of the work is not simply handed on to larger construction enterprises.

Public Works plans to mobilise seed funding for a mentoring programme for black firms in areas such as financial gearing, project resourcing and risk management.

This initiative should not be seen as an attempt to sideline or marginalise established companies, but rather as a bid to address apartheid-induced distortions.

"We remain committed to ensuring that significant business opportunities for the established construction sector will continue to be generated," the official said.

— Sapa



# Public works reviews procurement

CT (PR) 16/9/98 (176) (11)

LYNDA LOXTON

Cape Town — The department of public works had tightened up its affirmative procurement programme to prevent "subversion" by some construction companies and to fill in gaps that had developed, Sivi Gounden, the deputy director-general in charge of accommodation, said yesterday.

He told a workshop for national and provincial governments that the drive to raise the involvement of black firms in public works programmes had been a

"qualified" success because black firms still played a small role.

They seemed to prefer to enter into joint ventures with larger, established firms on mega-projects but did not always participate equally in contracts. The ventures covered only public sector projects and not private sector work, where black involvement was not mandatory.

In some cases, the black firms were actually paid not to become involved in the construction project, but merely to act as "fronts".

Gounden said the programme

would be rolled out over the next six months. It was expected to cover 90 percent of national and provincial projects, 25 percent of local government projects and 15 percent of parastatal projects.

To increase the involvement of black firms as prime contractors, a strategic projects initiative would be launched.

Gounden said preference would be given to black contractors wishing to take part in large projects as prime contractors, while a mentorship programme would also be developed.



'EQUAL SPEAK': Speaking at the BMF Western Cape employment equity conference on Saturday were (from left) Nolitha Fakude president of the BMF in the Western Cape, Meko Magida, of the Department of Labour and Johann Beard, president of the Cape Chamber of Commerce and Industry. PICTURE: DENZIL MAREGELE

# Poor support for Equity Act

(176) (188) ET 5/10/98  
**A SURVEY** shows companies have little commitment to the EEA, a factor the state calls "worrying". But the response of business is that equity requires more than writing statutes. **YAZEED FAKIER** reports.

**M**OST of the companies surveyed by the Department of Labour do not consult their employees when determining policy concerning questions of equal opportunity.

Furthermore, 67% were not committed to the new Employment Equity Act (EEA) and were not found to be accountable with regards to this legislation.

"It's a worrying factor if we want this legislation to succeed; it is legislation that is waiting to be promulgated at any time and to have that low level of commitment is very frightening," the department's labour relations deputy director Meko Magida

told a Black Management Forum Conference on employment equity.

The EEA aims to compel businesses to diversify the workforce across the spectrum of business. Fines for non-compliance range from R500 000 to R900 000.

Magida told the conference on Saturday morning that the department had undertaken a national baseline survey to establish the best practice currently being used within companies.

This was to help the department put into place analysis methodology systems to monitor and enforce the EEA.

He said that though only 450 of more

than 800 companies contacted had responded to the survey. It was nonetheless by far the "most comprehensive survey" of its kind in South Africa to date.

The survey revealed that, with regard to commitment and accountability to issues involving affirmative action, only 33% of companies were committed to the EEA legislation.

The survey had shown only 13% of companies had allocated funds to make resources available to facilitate the implementation of the EEA stipulations and that 77% of companies were not consulting, communicating or discussing questions concerning equal opportunity with their employees.

Management's reluctance to address the issue was due to the sensitive nature of the topic. On the one hand there were employees who had fears about it and employees on the other those who had great expectations of it.

"It has been left specifically to human resources management to deal with. We are saying this (initiative) must be driven from the office of the chief executive of the company," said Magida.

While the result of the survey was clearly an embarrassment to business, Magida said that neither he nor the department were out to lambaste companies.

The department was not being arrogant about the legislation and was keen to see it enjoying legitimacy similar to that of the Labour Relations Act, he said.

Presenting a business response to the passing of the act, Cape Chamber of Commerce and Industry president, Johann Beard, said that with increasing value being attached to individuals' contributions to the organisations they work for, he was certain that no one seriously believed the yawning skills gap in society could be solved by "bureaucratic intervention and tampering through legislation".

"The challenge is a far more formidable one than simply writing statutes," he said. "Experience across the world has demonstrated this and hopefully we will learn

from this and not waste precious time and resources by reinventing the mistakes made by others."

While much debate had been generated by the EEA, he had yet to see the issue of training and development as identified in the act featuring in the discussion.

Questions on what South African business, government and all other stakeholders were going to do in delivering on the key education and training component of the act still had to be seriously addressed.

"We talk about education and training when we talk about the Department of Education and Training, not when we talk about the Department of Labour, certainly not when we talk about affirmative action and most definitely not when we talk about the Employment Equity Act.

"If we don't bring about an accommodation of potential as a key criteria in a company's employment equity plans in preparing people, in identifying future potential, and on the other hand prioritising ability when we are debating promotion and appointments then our employment equity plans will inevitably attract the stigma of tokenism."

In its impact and contribution to transformation it would probably be judged by history as having failed to become an instrument for the upliftment and development of the disadvantaged in society.

Beard said that from a "pure labour market, economic point of view", the reality of an oversupply of unskilled and semi-skilled labour on the one hand, and a critical shortage of skilled, technical, professional and senior managerial personnel on the other, was generated — and is still being generated — as a consequence of the "so-called apartheid wage gap, and there can be no doubt that this skills gap is a result of apartheid policies".

He said supply and demand generated the similar outcome of more value being attached to scarcity than abundance; and that in this context "we need to realise that labour is just like capital — it gravitates to the most lucrative markets".

# Race still plays a part in getting a job

MD 9/10/98

(176) (177)

Reneé Grawitzky

WHITES who did not have matric had a 32% chance of finding a job, while their black counterparts had only an 8% chance, a unemployment report released by Statistics SA yesterday showed.

However, the report found the gap was narrower among black and white South Africans who had matric, with whites having a 56% chance of finding employment compared to blacks' 49% chance.

Statistics SA head Mark Orkin said the figures showed that race still played an important part in determining whether those who did not have matric become employed or not.

Orkin said the situation was rather different for blacks who had matric.

They were rapidly being absorbed into managerial jobs.

The comprehensive report, released ahead of the presidential job summit at the end of the month, highlighted a number of trends which could assist and inform policy makers, he said.

Trends included the shift in employment from the formal to the informal sector and high rates of unemployment among the youth, women and blacks.

The report showed that informal sector jobs grew by 600 000 as the overall economy shed 500 000 formal sector jobs over the last four years, reducing the number of employed to 7,5-million.

The informal sector was larger than estimated, with 1,8-million people being employed there.

At the same time the report revealed that while overall unemployment rose from 20,0% in 1994 to 22,9% last year, unemployment rates were highest among the youth at 35%, as SA's labour absorption rate continued to decline.

A special survey on employment and unemployment showed growing informal sector employment in transport, sales and manufacturing.

For the first time, Statistics SA is using the International Labour Organisation's definition of unemployed — a narrower definition than previously used in SA.

The broader unemployment definition reveals that unemployment has risen from 31,5% in 1994 to 37,6% last year.

The revised definition is used by more than 80% of developed and less developed countries.

The report also included a survey of 12 000 respondents who were asked to report on their own experiences of employment and unemployment since the 1994 elections.

It found that during that period more than 93% of those who had jobs were not retrenched, while conversely 90% of those who did not have job failed to find work.

In addition, 90% of those who were unemployed last year had been unable to find work for at least a year.

random to minister Nick Koornhof.

# Survey finds race still rules in the workplace

Johannesburg - South Africa's workforce remains skewed along racial lines, according to a report by the national statistics office.

The report for 1997 puts official unemployment, which includes those

actively seeking work, at 2.24-million people, or 23% of the economically active population, at the end of last year, compared with 20% in 1994.

The report subdivides the unemployed into blacks, coloureds, Indians

and whites, and shows the incidence of unemployment highest among blacks.

The report released yesterday puts the overall unemployment rate for women at 28% and for men at 19% of the economically active population, but

most acute amongst blacks. According to the report: "In 1997, official unemployment rates were highest for black people (29%), followed by coloured people (16%), Indians (10%) and whites (4%)." - Reuters

## Flags at half-mast for AIDS

President Mandela had ordered that the national flag today be flown at half mast on all Government buildings and foreign missions, in memory of those who died of AIDS, said presidential spokesman Parks Mankahlana.

All businesses with South African flags had been urged to do the same. Deputy President Thabo Mbeki was to

launch the Partnership Against AIDS initiative in Johannesburg today.

He would read a declaration on behalf of Mr Mandela.

Mr Mbeki's declaration was to be broadcast live on SABC television channels and radio stations, said a statement issued by the Government's communication service. - Sapa

## HIV hits SA police force

Pretoria - About a quarter of South Africa's police officers had AIDS, the SA Police Union said here.

This amounted to about 38 000 members of the service, it said in a statement yesterday.

"We are perturbed that the SA Police Service is the only Government department that has no clear

policy or strategy around AIDS and HIV awareness," it said.

The union said it had initiated its own awareness campaign and called on its members to take note of the Government's Partnership Against AIDS initiative to be launched by Deputy President Thabo Mbeki in Johannesburg today. - Sapa

APR 17/98

Director of reports, information, press



## Negative feedback on affirmative action

SMW 10/10/98  
An increasing number of companies are implementing affirmative action programmes, but more of them are saying that these are turning out to be unsuccessful.

This is one of the findings contained in the 1997/98 South Africa Survey, due to be launched on Wednesday by the South African Institute of Race Relations.

Some 56% of firms said active resistance to affirmative action among their employees was declining - even though they still saw affirmative action as a form of discrimination.

(176)  
And more companies have reported that black employees had "inflated expectations".

There had also been an increase in the number of organisations that said they had experienced a deterioration in the quality of work because of affirmative action.

The survey noted that questions had also been raised as to the impact that affirmative action laws - such as the Employment Equity Bill - would have on job creation, given the large fines proposed for violations of the legislation when hiring new staff - Sapa

# Employment equity will forc

*THE EXPERIENCE of senior black managers and employees reveals that the Employment Equity Act may prove to be the toughest piece of legislation to implement in a corporate business environment still dominated by white males. Senior Writer YAZEED FAKIER reports.*

**W**E all know it as affirmative action, but in certain quarters it has already become cynically known as "affirmative auctioning".

The "open door" policy at many companies has become a "revolving door" where hopeful black candidates are in one month and out the next.

When companies open their doors to accommodate affirmative action and employment equity policies, they usher in people whose language, religion, gender or sexual preference often differs from standard company culture. But often that is where the accommodation ends — and the conflict begins.

"You know as well as I do that conflict could be overt as well as covert and that the most dangerous one is the one that never rises to the surface," said Ron September, of the Development Dynamics human resources consultancy.

Speaking at a conference early last week organised by the Herr Organisation on the "racism bug" in Cape Town and its implications for business, he said: "If conflict is kept bubbling under the surface, we can never get to deal with it effectively."

"Nobody can come from outside and tell you what to do. They will never know your company well enough," he told a range of delegates from business, government and educational institutions.

Racism remains a major obstacle to corporate transformation, he said.

The Employment Equity Act compels companies to diversify their workforces and imposes fines of R500 000 to R900 000 for businesses that do not comply with the legislation.

Bernie September, a senior consultant for Development Dynamics who is married to Ron, told the meeting that if companies do not at a strategic level deal with and discuss such questions, managers — and certainly employees at the coalface — will not be drawn into the process of change.

Having done hundreds of exit interviews with black employees, she said there are certain critical events for a black manager starting a new job that company managements must be mindful of.

Some black managers are neither told they are the first black person to join the company, nor that they are the first black person to join at that level.

"In other words, nobody told them they would be a token — so at that point already they feel conned because they felt the company had been dishonest."

Corporate culture games are played that black candidates do not know how to deal with, such as being taken to expensive restaurants and served oysters.

"They would say to me: 'How do I know what to do with oysters?' Or: 'How do I know what kind of drinks to order other than the double scotch or

brandy that I would have at the good old Spur?' So already at the job offer level, the person feels threatened."

Often, however, the employment package is so attractive that they find it hard to turn down.

They are then surprised to find that — though they thought they were being employed for their competency and skills — they are sent on bridging courses where all the participants are black.

"They then start asking themselves: 'But if they thought I was such a great candidate, how come I'm being given so much training?'"

They are shown around the company and told by their white colleagues not to hesitate to ask for help. Yet when they do, they are resented for being a nuisance.

"These new recruits say that they are supposed to be coached and mentored ... but there is more informal coaching and mentoring given to whites who start out at the same time."

September cited the case of a woman who was with a company for 18 months and told she would be doing rotating duties but in that time found that she had learnt very little on the job.

Yet younger, white employees who had joined the company at the same time would by then have received actual, on-the-job training, "and I was still being rotated ... and here I am sitting in front of you with an exit interview".

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The challenge to companies is to heed the spirit of the law and not to stick rigidly to the letter of the law. Some companies, she said, are even going as far as budgeting for the fines stipulated in the Employment Equity Act.

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**MAKING THE CONNECTION:** Consultant Bernie September highlighted the experiences of black managers who join the traditionally white male corporate environment for the first time.

PICTURE: DENZIL MAREGELE

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"We have strengths, but we are not always exploring them to their fullest potential.

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"We were not groomed to be winners or leaders — we were groomed to be followers.

"But companies need to be aware that if you give a black person an opportunity, the right environment and understand where they come from, you can actually work together."

She says companies are increasingly coming to the realisation that their chances of succeeding are minimised with an absence of black talent.

And, she adds, black people can no longer be used as mere window-dressing in that environment.

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What about her plans for her future?

"My vision is that I'd like to have my own company one day and to create employment opportunities for others — to have a company that is me."

And you can bet she's already mapping out that path.

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Consultant Bernie September highlighted the barriers who join the traditionally white male corporate

PICTURE: DENZIL MAREGELE

# Employment equity will force c

*THE EXPERIENCE of senior black managers and employees reveals that the Employment Equity Act may prove to be the toughest piece of legislation to implement in a corporate business environment still dominated by white males. Senior Writer YAZEED FAKIER reports.*

**W**E all know it as affirmative action, but in certain quarters it has already become cynically known as "affirmative auctioning".

The "open door" policy at many companies has become a "revolving door" where hopeful black candidates are in one month and out the next.

When companies open their doors to accommodate affirmative action and employment equity policies, they usher in people whose language, religion, gender or sexual preference often differs from standard company culture. But often that is where the accommodation ends — and the conflict begins.

"You know as well as I do that conflict could be overt as well as covert and that the most dangerous one is the one that never rises to the surface," said Ron September, of the Development Dynamics human resources consultancy.

Speaking at a conference early last week organised by the Herr Organisation on the "racism bug" in Cape Town and its implications for business, he said: "If conflict is kept bubbling under the surface, we can never get to deal with it effectively."

"Nobody can come from outside and tell you what to do. They will never know your company well enough," he told a range of delegates from business, government and educational institutions.

Racism remains a major obstacle to corporate transformation, he said.

The Employment Equity Act compels companies to diversify their workforces and imposes fines of R500 000 to R900 000 for businesses that do not comply with the legislation.

Bernie September, a senior consultant for Development Dynamics who is married to Ron, told the meeting that if companies do not at a strategic level deal with and discuss such questions, managers — and certainly employees at the coalface — will not be drawn into the process of change.

Having done hundreds of exit interviews with black employees, she said there are certain critical events for a black manager starting a new job that company managements must be mindful of.

Some black managers are neither told they are the first black person to join the company, nor that they are the first black person to join at that level.

"In other words, nobody told them they would be a token — so at that point already they feel conned because they felt the company had been dishonest."

Corporate culture games are played that black candidates do not know how to deal with, such as being taken to expensive restaurants and served oysters.

"They would say to me: 'How do I know what to do with oysters?' Or: 'How do I know what kind of drinks to order other than the double scotch or

brandy that I would have at the good old Spur?' So already at the job offer level, the person feels threatened."

Often, however, the employment package is so attractive that they find it hard to turn down.

They are then surprised to find that — though they thought they were being employed for their competency and skills — they are sent on bridging courses where all the participants are black.

"They then start asking themselves: 'But if they thought I was such a great candidate, how come I'm being given so much training?'"

They are shown around the company and told by their white colleagues not to hesitate to ask for help. Yet when they do, they are resented for being a nuisance.

"These new recruits say that they are supposed to be coached and mentored ... but there is more informal coaching and mentoring given to whites who start out at the same time."

September cited the case of a woman who was with a company for 18 months and told she would be doing rotating duties but in that time found that she had learnt very little on the job.

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(176) CT 121



**CRUSHING STEREOTYPES:** Tisetso Tsukudu, leading communications comp



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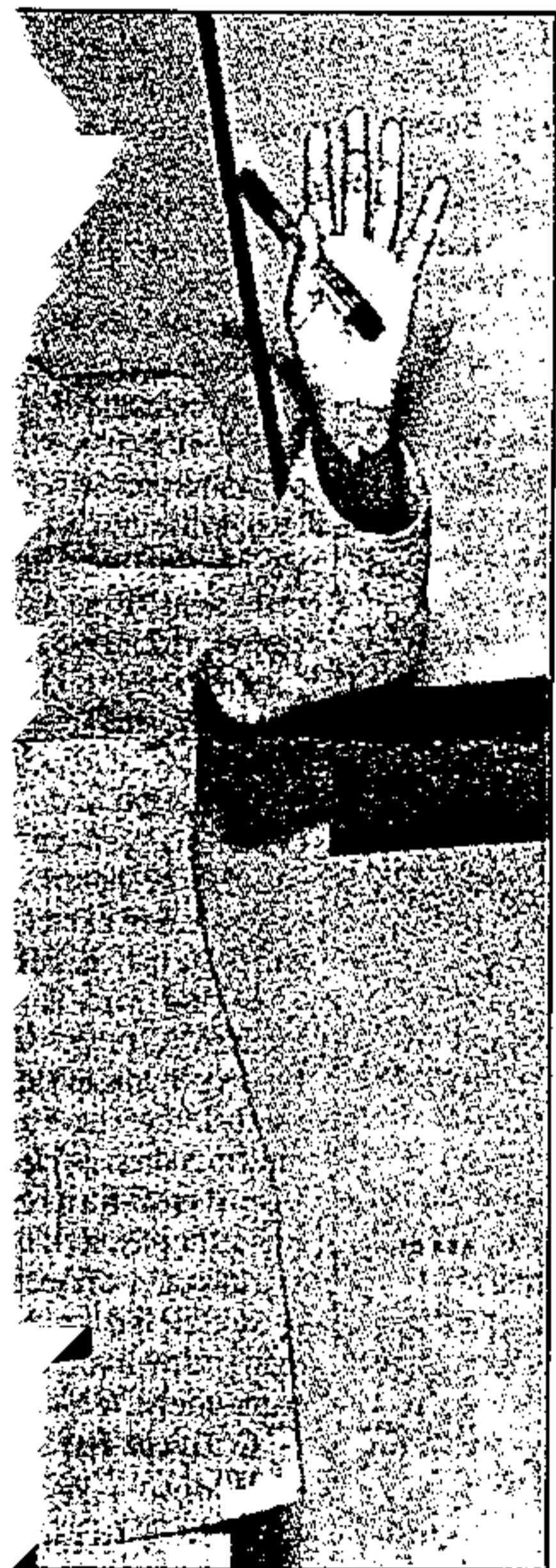
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**PICTURE: DENZIL MAREGELE**

## Union wants entry-level jobs for jobless whites

(176) BD 16/10/98  
PRETORIA — Young unemployed whites should be given a portion of traditionally black entry-level jobs left vacant by affirmative action promotions, the Mineworkers' Union said yesterday.

At least 50 000 jobs could be created for whites in this way in next five years, general

secretary Flip Buys told the all-white union's job summit in Pretoria.

"Where employers are setting black targets for educated job levels, we are going to set reversed targets to find work for young unemployed whites in entry level jobs traditionally filled by blacks," he said.

The union contends

that workers at all job levels should be representative of the population in terms of the stated objectives of affirmative action. This means there should also be room for white workers at entry levels.

The union had so far found work for more than 180 of its members in this way. — Sapa.

# Black jobs for whites mooted

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The MWU, which claims an all-white membership of 60 000, contends that workers at all job levels should be representative of the population in terms of the stated objectives of affirmative action. This means there should also be room for white workers at entry levels.

Buys said in an interview that many of these positions were becoming vacant because of affirmative action promotions. "We are negotiating with large mining groups and factories to give some of these jobs to our mem-

bers, and several employers have agreed to do so."

The MWU had so far found work for more than 180 of its members in this way. Some black trade unions indicated that they would not oppose the plan, Buys said.

"They say they cannot disagree as we are hitting them with their own whip."

He said a number of matriculated whites, who could not find jobs, were employed as underground mineworkers. (176)

"They are doing manual work, literally earning a living by swinging a pick. So far, the employers are happy with our people's performance."

Buys told the summit the MWU intended creating another 50 000 jobs in the next five years by using various other schemes. These included career training for members and advancing entrepreneurship among young Afrikaners.

Cooperative farming was another alternative. MWU representatives recently visited Israel to examine methods used in that country. - Sapa.

Sowetan 16/10/98

# Not many blacks at top of the ladder

By ZOLILE NQAYI (176)

CP 18/10/98

DESPITE the introduction of employment equity initiatives and affirmative action in large enterprises, little progress has been made to involve more blacks in professional, managerial and skilled positions.

This, said Labour Minister Mem-bathisi Mdladlana, was reflected in a recent survey by the Department of Labour.

"The findings showed African and black employees make up a very small percentage of the management, professional and technical occupational categories. Instead, African men and women together make up 87 percent of all employees in the labourer occupational category," said Mdladlana during his address at this week's Black Management Forum annual conference in Mmabatho.

Because of the lack of progress in the implementation of employment equity, he said, the recently passed Employment Equity Act was important for "sustainable reconstruction and development in our continent".

He said one of the pillars of the re-awakening of the continent was economic regeneration.



**HARD AT WORK...** Shepherd Mdladlana is making sure the new Act will be implemented

## Employment equity on track despite criticism

GOVERNMENT was committed to putting employment equity legislation in place soon despite criticism that the Act would be impossible to implement.

Labour Minister Shepherd Mdladlana told the Black Management Forum's annual national conference in Mmabatho this week that his department was already preparing for the implementation of the Act.

"Numerous tasks need to be

**EMPLOYMENT EQUITY**  
By THABO KOBOKOANE

undertaken before the law can fully come into effect," Mdladlana says. These include recruiting and training additional staff and establishing the Commission for Employment Equity.

Mdladlana says he will make further announcements in due course. The department has said it will spend about R150-

million over the next five years enforcing the new employment equity law.

The controversial legislation, passed by parliament in August, will compel businesses employing 50 or more people and with annual turnover of more than R10-million to submit within 18 months employment equity plans outlining methods to remove discrimination and ensure the creation of a more diverse,

representative labour force.

Other aspects of the legislation oblige employers to "progressively reduce" the wage gap between workers and bosses and disclose to government the remuneration packages of all employees.

In defence of the legislation, Mdladlana says it would have been "suicidal" if the democratically elected ANC government in SA ignored the inequalities.

ST 18/10/98

**BUSINESS** *Whites still dominate boardrooms*

# Black directors on the increase

(176)

ANN CROTTY 19/10/98

Johannesburg — Black directors have significantly increased the number of directorships they hold in the past three years, according to Robin McGregor of the reference book *Who Owns Whom*.

But McGregor's research shows that overall trends in the world of directors have not been encouraging, with a sharp increase in the number of multi-directorships held from 59 in 1995 to 168 in 1998.

White males still dominate the boardroom, but black males are making steady progress.

Black males are also falling into line with the disturbing custom that dominates the South African corporate scene: individuals holding more than one directorship.

In 1995 only 13 black males held more than one directorship. Three years later, 38 black males hold more than one. Of these, three hold more than 10 directorships.

But black males have a considerable way to go before they catch up with their white counterparts on this score: 32 white males hold more than 10 directorships.

Anglo American directors top the



**STRETCHED** *Real Africa's Don Ncube sits on 12 boards*

list. Les Boyd, the Amic chairman, is on 20 boards; Mike King, the Anglo finance director, sits on 18 boards; and Rupert Pardoe, the Anglo executive director who is a newcomer to the directorship stakes, sits on 15 boards. Three years ago he sat on only one.

Black males who are looking a bit stretched in terms of board representation are Kagiso's Eric Molobi, on 15 boards; Real Africa's Don Ncube, on 12 boards; and Nail's Cyril Ramaphosa, who sits on 10 boards.

# Employment equity now in the lawbooks

THABO LESHLIO

BUSINESS EDITOR

Mafikeng — The hotly contested Employment Equity Act became law on Friday morning when it was signed by President Nelson Mandela.

Shepherd Mdladlana, the labour minister, told delegates at the Black Management Forum annual conference that the act was pivotal to addressing "the disturbing lack of progress by the majority of companies of the implementation of employment equity". He referred to a recent survey by the department of labour that showed African and black employees

made up very small percentages of the management, professional and technical occupational categories.

Instead, African men and women made up 87 percent of all employees in the labour occupational category. African employees together made up close to 6 percent of senior management and just under 13 percent of junior and middle management. Black employees comprise 11 percent of senior management and 25 percent of junior to medium management positions. "The picture is particularly bleak when we look at their representation of African women in management positions," said Mdladlana.

*of (GMA) 19/10/1998*

"A mere 1 percent of senior managers and 2.36 percent of those in junior to middle management positions are African women."

More worrying was the fact that large corporate employers, many of whom had been involved in employment equity initiatives for some time, appeared to have made little more progress than smaller enterprises with respect to their representation of their black women and people with disabilities in the managerial professional and skilled occupational categories. Mdladlana said that, looking across Africa, it was clear that although the new constitutions that

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emerged after colonialism outlawed unfair discrimination, like the South African constitution, they were not enough to eradicate disparities created over decades of colonialism. It was, therefore, imperative that the government intervened to push through and employment equity.

"Numerous tasks need to be undertaken before the law can come fully into effect more department officials need to be recruited, staff need to be trained, the commission for employment equity needs to be established, a public education campaign needs to be undertaken and computer systems have to be set up," he said.

# Govt needs help with Act, says Minister

By Mzwakhe Hlangani  
Labour Reporter

EMPLOYMENT equity is not only a moral imperative but also a precondition for sustainable development of the African people, Minister of Labour Shepherd Mdladlana said at the weekend.

Addressing the annual conference of the Black Management Forum on the Employment Equity Act in Mafikeng, the minister said the law now prohibited unfair discrimination.

Mdladlana challenged black managers and organisations to begin engaging the Government in implementing the Act.

"This will create a secure foundation for employment equity for future generations and this will be no small contribution to the renewal of our continent," he said.

The disparities in employment opportunities were particularly bleak at representing Africans and women in management, professional and technical categories, he said.

## Intensify its participation

A recent survey showed that African men and women together make up to 87 percent of all employees in the labourer category.

The management conference resolved to formalise and intensify its participation together with the Government in the national commission that will review company performances with regard to the Act.

The conference also resolved that the Black Management Forum will facilitate training programmes for its members on information technology and the effects of globalisation in preparation for the next millennium.

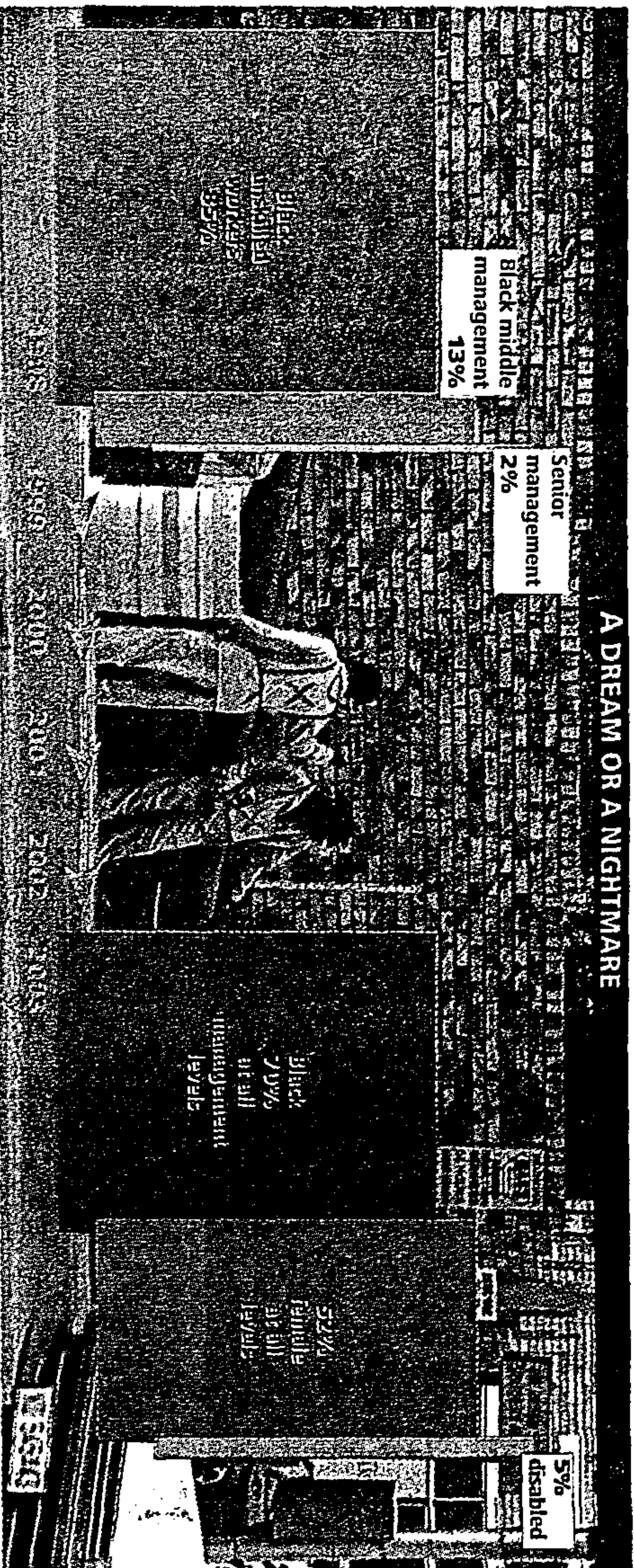
Deputy chairperson of the National Council of Provinces Naledi Pandor said recent attempts to give meaningful content to the African renaissance debate were central to the agenda of sociopolitical and economic transformation.

The conference concluded that black managers were capable of wielding a great deal of influence and could play a central role in advancing the economic imperatives of a successful transformation in South Africa.

Secretary 19/10/98

(17b) [scribbles]





# Employers must step into new world

ST (CPT) 28/10/98 (176) (188)

**W**HEN President Nelson Mandela signed the Employment Equity Act into law on October 16, he dramatically changed the way companies will have to think and act.

The Act's stated intent is to eliminate unfair discrimination, ensure employment equity and achieve a diverse workplace broadly representative of the country's demographic realities.

To achieve these ideals, a fine line has been drawn between fair and unfair discrimination, and one of the challenges will be to distinguish between the clauses of The Labour Relations Act, which specifically prohibit discrimination on any grounds, and those of the Employment Equity Act, which require fair discrimination to achieve employment equity.

Labour Minister Shepherd Mdladlana was quick to point out that while the Employment Equity Act had been pushed through parliament, the infrastructure to put it into effect was almost non-existent. It is estimated that some 10 000 inspectors will have to be employed and trained to monitor the implementation of the Act.

If the implementation of the Labour Relations Act and the resulting admin-

istrative chaos at the Commission for Conciliation, Mediation and Arbitration is anything to go by, the Labour Department and business are in for a rough time indeed.

The Employment Equity Act will heighten worker expectations to unachievable levels, in much the same way as the unfulfilled pre-election promises of 1994 are now coming home to roost. So why the rush to put a statute on the books with no means to monitor and implement it, or the opportunity to educate employers and employees alike as to its implications? Politics is the name of the game. With education, health and security promises largely unfulfilled, unemployment at an all-time high, the rand collapsing and crime rampant, employment equity is seen by many politicians as the panacea for the masses.

But make no mistake, the Employment Equity Act, if carefully and properly implemented, has the potential to help improve productivity, educate a largely functionally illiterate workforce and meet worker aspirations.

The Employment Equity Act is now a reality and businesses must adapt, writes RAEI SOLOMON

Employers' equity plans are to be drawn up and registered with the Labour Department within six months for employers with more than 150 employees, and within 12 months for smaller employers. The plan will have to show how the employer intends to achieve employment equity in the workplace within one to five years.

The Employment Equity Act has teeth. It takes precedence over all other legislation, with the exception of the Constitution. Failure to properly implement the Act can result in fines of up to R900 000 for infringements, and companies not registered for equity will not be eligible to supply goods and services to the government, provinces, parastatals and many companies.

All designated employers will have to spend 1% of their wage bill on the education and training of their employees, but 80% of this levy may be claimed back if the training is performed by suitably registered trainers.

In their initial stages, equity plans should include adult-based education and training and specialised skills train-

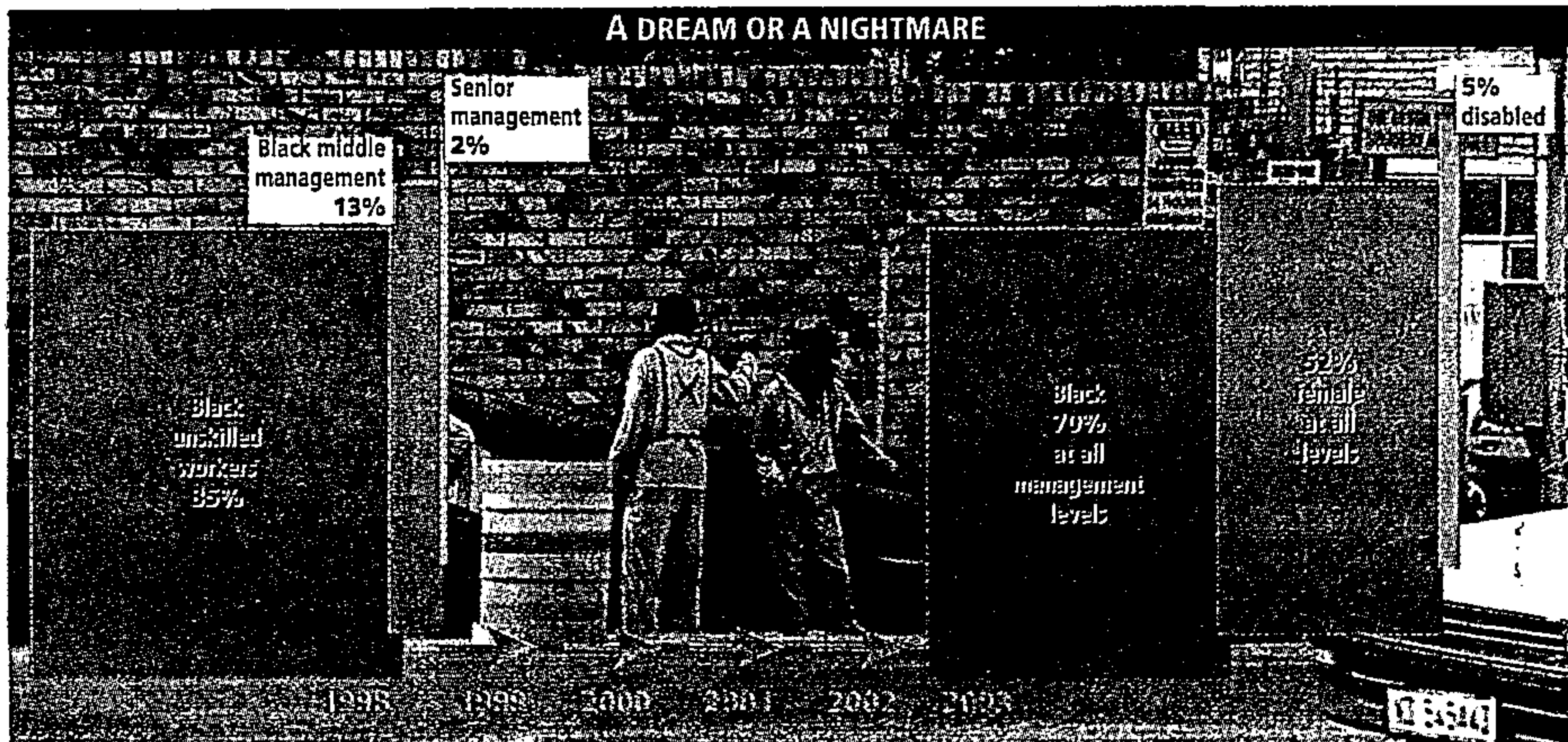
ing. These steps serve the dual purpose of showing employees that employers are taking the equity legislation seriously, while it has also been shown that a functionally illiterate workforce increases productivity. A professional training programme combined with career path planning also leads to a loyal and efficient workforce.

Without a well-planned training programme, employers will have to resort to poaching middle and senior management. Many companies are also investigating the legalities of splitting themselves into smaller worker entities in an attempt to circumvent the legislation. These steps are likely to boomarang with incensed workers reporting doubtful practices.

Employers would do well to implement equity planning as quickly as possible, thus winning the confidence of their workers and at the same time giving themselves the opportunity to correct the pitfalls that will inevitably occur on this journey into the unknown.

● Rael Solomon heads up The Labour Consultancy and works with Self Employment International on their equity seminars. He also prepares the Labour Guides column for Business Times on the Internet ([www.btimes.co.za](http://www.btimes.co.za)).

## A DREAM OR A NIGHTMARE



# Employers must step into new world

ST(BT) 25/10/98 (176) (108)

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Govt policies  
harmful, say

engineers

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Sibonelo Radebe (76)

GOVERNMENT's hasty policies aimed at transforming the private sector will harm business, says Pieter Conradie, newly elected president of the SA Association of Civil Engineers.

Conradie said yesterday the scarcity of black engineers would make it almost impossible for the professional engineering business sector to meet the requirements of the Employment Equity Bill.

There were fewer than 600 professional black engineers in the country and the entire private and public sectors were competing for them. Black engineers were difficult to get hold of, and keep, as they were continually poached.

The few engineers in the market were moving towards setting up their own businesses to exploit the opportunities of the affirmative action policy which required government to prioritise emerging contractors in awarding tenders. Given these conditions, it would take some time for the sector to become representative of the broader population.

The sector was taking an active part in training new black engineers and spent about R18m a year — 52% of this covered students from previously disadvantaged backgrounds.

## Companies 'prepared for employment equity'

(176) (158)

Slightly more than three-quarters of South African companies were generally positive or neutral about the impending employment equity legislation, a survey has found.

According to the affirmative action monitor published by human resources consultants FSA-Contact, most organisations have already taken steps to comply with the requirements of the Employment Equity Bill, despite the fact that it has not yet been promulgated.

In a statement yesterday, FSA-Contact said the survey found that the proportion of senior and middle management positions in South

African organisations currently held by blacks had more than doubled in the past three years, and this figure was expected to almost double again at senior management level by 2001.

While 4,8% of senior management positions were held by blacks in 1995, this increased to 11,5% this year, and was expected to rise to 20,7% in 2001.

The proportion of white senior managers had declined from 92,2% to 83,7% between 1995 and this year.

Only 4,6% of top management positions are held by women, compared with 2,6% in 1995. By 2001 only 5% of top managers are expected to be female. - Sapa

Star 23/11/98

# Whites feel bite in affirmative action drive

BD 23/11/98

(176)

Jonny Steinberg

THE proportion of blacks in management positions doubled in the past three years as companies prepared for the promulgation of the Employment Equity Bill, a survey released yesterday concluded.

However, 69% of organisations reported resistance to affirmative action by white employees, said the survey of 120 large and small organisations across SA by FSA-Contact.

Affirmative action policies were in place in 95% of organisations canvassed, compared with 58% in 1993.

While blacks occupied 5% of senior management positions in 1995, the figure increased to 12% in 1998 and was expected to rise to 21% by 2001. The proportion of blacks in middle management rose

from 10% to 21% during the same period and was expected to reach 29% by 2001.

Whites accounted for 79% of middle management in 1995 and 61% in 1998. The figure would drop to 55% by 2001.

Affirmative action policies had matured from "panic-inspired, knee-jerk responses" in the early 1990s to a sober performance-related process of promotion, said FSA-Contact's Kris Crawford.

"In the early 1990s there was a frenzied price war for black faces," Crawford said. "But too many people burned their fingers, both employers and newly appointed black executives who were not ready for the job. Today most companies look in-house and furnish their employees with the requisite skills they need. The most common gateway to senior management is through long-term understudy

and shadow programmes."

It was unlikely that companies would retrench white managers to make way for black appointments, he said. Most companies would rely on natural attrition. However, whites would battle to climb company hierarchies.

"Those whites entering the job market now and those already in junior positions are going to struggle. As a rule they will be passed over in favour of skilled black personnel. White employees are feeling the bite of affirmative action, which accounts for the high level of discontent recorded in the survey."

Affirmative action among women and the disabled was negligible. "The greatest political pressure is to address the racial imbalance," Crawford said. "The other two are not factors in affirmative action."

# Black advancement depends on economic growth

The latest FSA-Contact affirmative action survey has been criticised for attempting to create the impression that whites are being eliminated from the work place, writes **Reneé Grawitzky**

BREAKWATER Monitor, based at the University of Cape Town's business school, brought into question yesterday FSA's survey which found that the proportion of blacks in management positions had doubled in the past three years. The monitor said that although the penetration of blacks into senior management positions had risen, the increase was marginal, not to the extent claimed.

The FSA-Contact survey found that the number of blacks in senior management positions had increased over a three-year period from 4,8% to 11,5%; while the Breakwater survey findings said the rise was from 3,5% to 6,8%.

Breakwater said that although the rate of change was similar, they were both off a low base. In real terms, there were currently 275 blacks in senior management positions, compared with 6 393 whites.

The labour department's chief director for labour relations, Lisa Seitel, said: "We would be pleased if the proposed employment equity legislation was having such an impact, but based on our baseline survey released last year we also question the FSA figures."

This survey of well over 400 companies found that only 6% of senior managers were black, while 29% of companies had affirmative action policies in place. The FSA said 95% of the companies surveyed by it had some form of affirmative action policy in place, whether formal or not.

Breakwater research associate Angus Bowmaker-Falconer said these figures measured only changes at management level, which made up 5% of the total labour market. "To get alarmist about 5% of the labour market is not dealing with the real challenge for SA organisations, which is to develop skills."

FSA, however, did survey changes in other levels of organisations and found a downward trend in the employment of whites compared with blacks. It concluded that blacks now accounted for 34% of all professional positions, compared with 29,3% in 1995, while

the proportion of white professionals declined from 58% to 52%.

The survey predicted that this trend would accelerate over the next three years and that by 2001, blacks would make up 42,8% of the professional workforce and whites 39,5%.

FSA has attributed the discrepancies in the findings to the fact that its sample is different to that of the Breakwater Monitor survey.

The Black Management Forum said it was "critically important that we register numbers based on the comparative analysis of the industry and refrain from registering numbers of an unrepresentative sample, as this can be misleading".

Economists and analysts said the discrepancies between the two surveys' results were largely irrelevant as the continued progression of blacks into senior and other positions would ultimately depend on the economy. Economic growth would have a direct bearing on progress towards achieving employment equity.

An analyst said additional job opportunities depended on the pattern of economic growth. Employment equity legislation would be more acceptable if there were adequate rates of job growth.

"If you do not have employment as a key objective in your effective macroeconomic strategy, it would be more difficult to make labour market policies dealing with equity acceptable to your whole population," he said.

These views are borne out by the FSA survey, which found that most companies

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surveyed were extremely positive or positive about the impending legislation, while the main resistance came from white employees.

Breakwater said there was no evidence that whites were being systematically removed from their jobs.

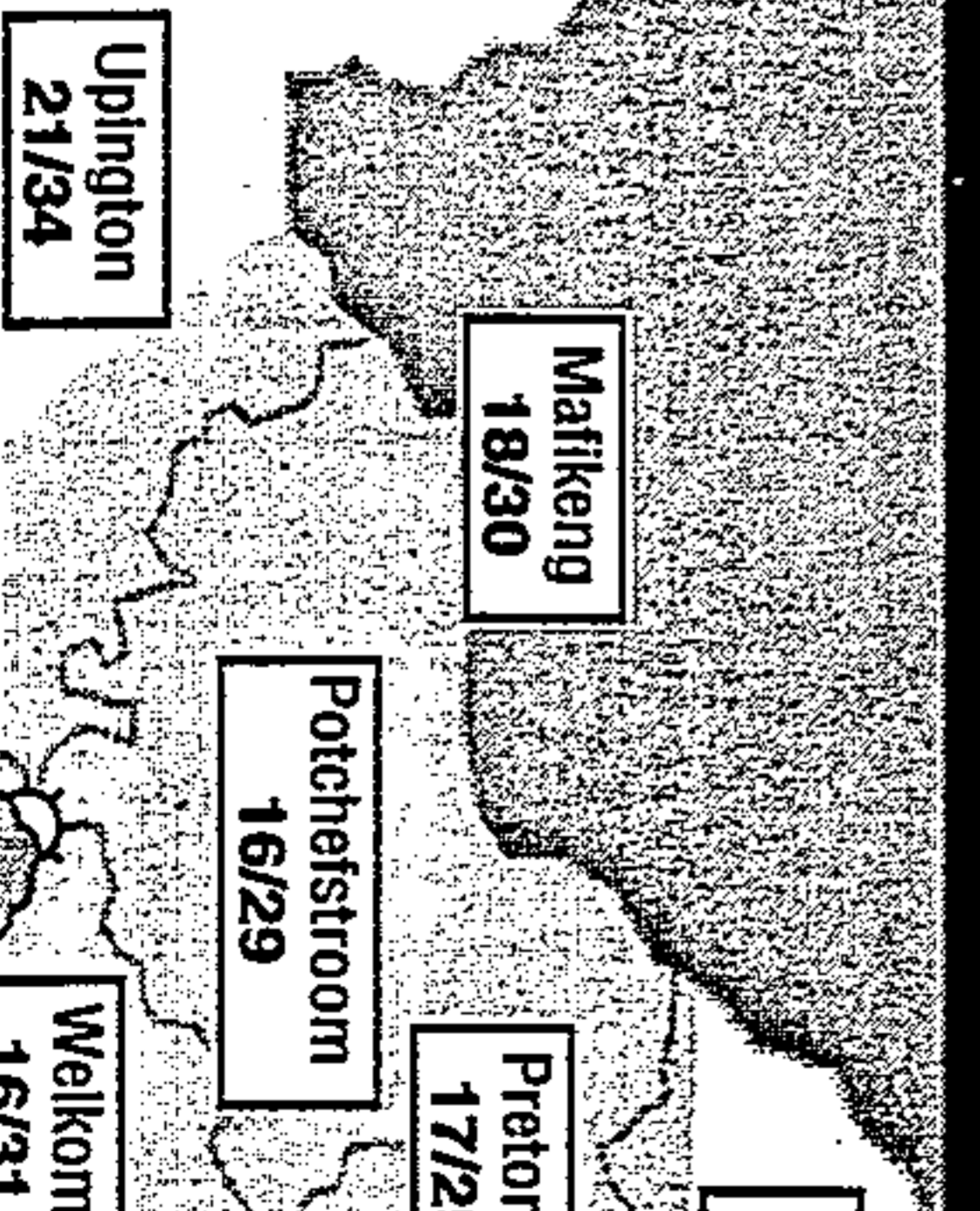
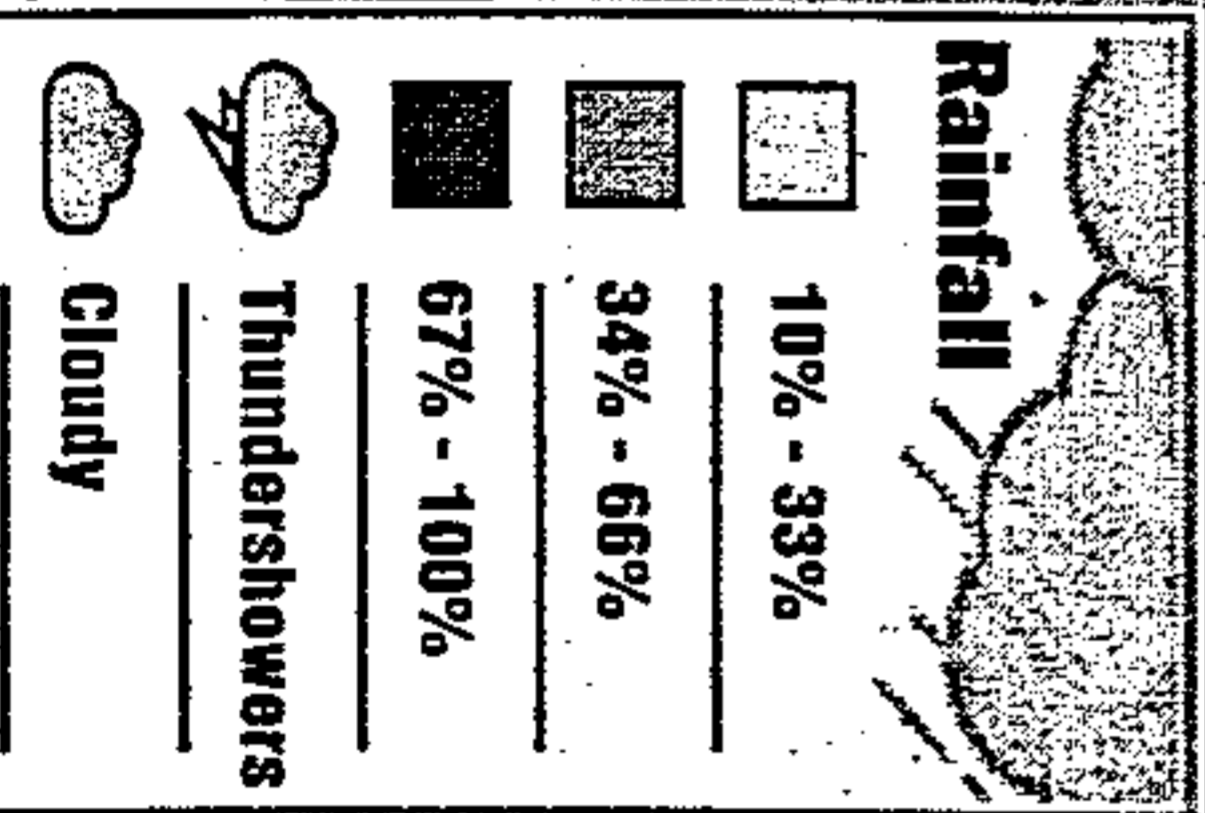
Bowmaker-Falconer said the data collected from all organisations should be used constructively to move forward rather than used as a zero sum gain. "If blacks are brought into an organisation, it does not automatically mean that whites are being removed."

Durban-based consultant Pat Stone said there was "a lot of overreaction to affirmative action".

For years organisations have known they had to develop affirmative action programmes. "The tragedy is that we are now introducing another piece of legislation which will place additional strain on the economy because of limited resources."

Comment: Page 13

## TODAY'S WEATHER



# Companies ahead of Equity Act

By Mzwakhe Hlangani  
Labour Reporter

**E**MPLOYMENT equity legislation has gained overwhelming acceptance from the majority of companies even before its presentation to the public, a study by FSA-Contact consultancy has disclosed.

Human resources consultancy spokesman Ms Kris Crawford also revealed this week that most companies had taken steps to comply with the legislation's requirements.

Over 95 percent of the survey participants already had affirmative action programmes in place, while 75 percent of them had adopted a more aggressive approach towards affirmative action.

The implementation of the law is imminent; the Act was passed by Parliament last September.

Crawford said most of the organisations had started to conduct equity audits, increasing training for employees and revising their existing affirmative action policies.

The report found that some organisations had already drawn up a framework and timetable to achieve these goals.

"It is interesting to note that 60 percent of organisations have already made progress towards the compilation of an employment equity plan as envisaged by the legislation through consultation with employees or trade unions and workplace forums."

The study found that the proportion of black managers had increased to 11,5 percent in the past three years, and a projected 20 percent growth at senior management level by the year 2001 was expected.

More significant change was expected among the general staff where the ratio of black employees rose from 56,5 to 66,1 percent over the past three years while the white component of this sector dropped from 25,8 to 15,6 percent.

Blacks accounted for 34 percent of all professional positions compared to 29,3 percent in 1995, while the portion of white professionals declined to 52 percent.

Elevation of women to senior corporate positions has been relatively slow over the past three years and is expected to remain static at around 14,5 percent.

The disabled accounted for less than half a percent of general staff.

*26/11/98  
Sowetan*

*(17/1)*